

# Plaintiffs' Appendix to Local Rule 56 Statement of Undisputed Material Facts

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<b>Exhibit</b>	<b>Document Title</b>
A	Declaration of Brett Christian in Support of Plaintiffs' Motion for Preliminary Injunction (Sept. 26, 2022)
B	Deposition of Brett Christian (Nov. 16, 2022)

# Exhibit A

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

JOHN BORON  
Depew, NY 14043

BRETT CHRISTIAN  
Cheektowaga, NY 14225

FIREARMS POLICY COALITION, INC.  
5550 Painted Mirage Rd. Ste. 320  
Las Vegas, NV 89149, *and*

SECOND AMENDMENT FOUNDATION  
12500 NE 10th Place  
Bellevue, WA, 98005,

*Plaintiffs,*

v.

Civil Action No. 1:22-cv-695

KEVIN P. BRUEN, in his official capacity as  
Superintendent of the New York State Police  
New York State Police  
1220 Washington Avenue  
Building 22  
Albany, NY 12226,

JOHN J. FLYNN, in his official capacity as  
District Attorney for the County of Erie, New  
York  
Erie County District Attorney's Office  
25 Delaware Ave  
Buffalo, NY 14202,

*Defendants.*

**DECLARATION**

I, Brett Christian, hereby declare under penalty of perjury, that the following information is true to the best of my knowledge and state the following:

1. I am over 18 years old. I am competent to give this declaration. I am providing this declaration based on my personal knowledge and experience.

2. I am a citizen of the United States, and a resident and citizen of the State of New York, currently residing in Cheektowaga, New York. I am a current member of Firearms Policy Coalition, Inc., and the Second Amendment Foundation.

3. I am not prohibited under state or federal law from acquiring or possessing firearms or ammunition.

4. I am currently licensed to carry a handgun pursuant to New York law with a license issued by Erie County.

5. On July 1, 2022, the State enacted S51001, which implements expansive new criminal laws that ban the carry of firearms in so-called “sensitive locations” and establishes a presumption that private property in the State is a “restricted location[]” where carrying firearms is forbidden absent affirmative steps by the property owner to allow them.

6. After September 1, 2022, three of S51001’s operative provisions—New York State Penal Law § 265.01-e(2)(d) (public parks), § 265.01-e(2)(n) (public transportation), and § 265.01-d (default anti-carry rule), with respect to places open to the public—as well as Defendants’ regulations, policies, and enforcement practices implementing them, have barred me from carrying a firearm for self-defense in places that I previously carried in and would intend to keep carrying in, but for the enactment and enforcement of these provisions.

7. Prior to the enactment and enforcement of S51001, I would carry a firearm for self-defense while walking in local parks or when hiking on trails in largely wooded and marshy areas a few times each month. As these places can be far removed from any public safety response, I

would intend to keep carrying for self-defense in these places, but now I cannot because of the enactment and enforcement of S51001.

8. Prior to the enactment and enforcement of S51001, I submitted a request for time off at my place of employment for a couple of days in November 2022. I intended to visit the Adirondacks Park, a place that I visited prior to the Covid pandemic and to which I desired to return. During my planned visit to Adirondacks Park, I intended to carry a firearm for self-defense to protect myself from both criminal attack and wildlife, especially given that many areas in Adirondacks Park are far from any public safety response. Now, because of the enactment and enforcement of S51001, I have canceled any plans to visit Adirondacks Park this year because I cannot carry a firearm for self-defense and would be left defenseless.

9. Prior to the enactment and enforcement of S51001, I would visit downtown Buffalo by taking NFTA Metro Rail, when traffic or events downtown made driving impractical. Now I will be unable to visit downtown Buffalo by taking public transportation and carry for self-defense, as I would intend to, but for the enactment and enforcement of S51001. This is particularly problematic for me personally because, by not being allowed to carry a firearm on public transportation, I will be unable to have a firearm with me when I arrive in downtown Buffalo, where I am concerned for the personal safety of myself and those I am with.

10. Because of the presumptive designation of private property, which is open to all members of the public, as a “restricted location,” I will be unable to carry my firearm for self-defense throughout the State. Prior to the enactment of S51001, I would typically bring my firearm with me on private property open to the public, including weekly visits to gas stations and monthly visits to hardware stores. I intended to continue to do so, but for the enactment and enforcement for S51001. Now throughout my community, establishments that are open to the public and in

*which I previously carried a firearm, have failed to post conspicuous signage consenting to the carrying of firearms. But for the enactment and enforcement of S51001, I would continue to carry a firearm in establishments such as these that neither prohibit the carrying of firearms nor post signage consenting to the carrying of firearms.*

11. The presumptive designation of private property throughout the State as a “restricted location” has particularly burdened me when driving or running errands. Because of the enactment and enforcement of S51001, when I am driving, I am unable to take any bathroom breaks, pick-up or buy food, or to get gas if I am carrying my firearm with me and there is not “clear and conspicuous signage” indicating that the “carrying of firearms . . . is permitted.” Since S51001 bars even entering these locations, I must disable and store my firearm before I drive my vehicle or walk into the parking lot, which means that sometimes I must stop carrying for self-defense before I can get physically close enough to see if any “clear and conspicuous signage” exists. I am concerned that the process of disabling and storing my firearm will put me in an uncomfortable situation with passersby observing me store my firearm.

12. By having to constantly disarm in order to comply with S51001’s provisions in places that I would otherwise carry in, but for the enactment and enforcement of S51001, I am left without the ability to defend myself and I am suffering diminished personal safety on a frequent and ongoing basis.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed this 26th day of September, 2022.

  
Brett Christian

# Exhibit B



1 UNITED STATES DISTRICT COURT  
2 WESTERN DISTRICT OF NEW YORK

3 -----  
4 **BRETT CHRISTIAN, FIREARMS POLICY COALITION,**  
5 **INC., and SECOND AMENDMENT FOUNDATION,**

6 Plaintiffs,

7 -vs- Civil Action No. 22-cv-00695 (JLS)

8 **STEVEN A. NIGRELLI, in his official capacity as**  
9 **Superintendent of the New York State Police,**  
10 **and JOHN J. FLYNN, in his official capacity as**  
11 **District Attorney for the County of Erie,**

12 Defendants.  
13 -----

14 Examination Before Trial of **BRETT**  
15 **CHRISTIAN**, held before Brooklyn Morton, Notary  
16 Public, at Phillips Lytle, LLP, One Canalside,  
17 125 Main Street, Buffalo, New York, on November  
18 16th, 2022, commencing at 1:00 p.m. and ending  
19 at 5:00 p.m., pursuant to notice.  
20  
21  
22  
23  
24  
25

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135 Delaware Avenue, Suite 301, Buffalo, New York 14202  
716-853-5544

**A P P E A R A N C E S**

APPEARING FOR THE PLAINTIFFS:

**PHILLIPS LYTTLE, LLP**  
**BY: SAM WILLIAMS, ESQ.**  
One Canalside  
125 Main Street  
Buffalo, New York 14203  
(716) 847-8400

APPEARING REMOTELY FOR THE PLAINTIFFS:

**PHILLIPS LYTTLE, LLP**  
**BY: NICOLAS J. ROTSKO, ESQ.**  
One Canalside  
125 Main Street  
Buffalo, New York 14203  
(716) 847-8400

APPEARING FOR THE DEFENDANTS:

**STATE OF NEW YORK**  
**OFFICE OF THE ATTORNEY GENERAL**  
**LETITA JAMES**  
**BY: RYAN L. BELKA, ESQ.**  
**ASSISTANT ATTORNEY GENERAL**  
Main Place Tower  
350 Main Street  
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(716) 853-8400

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1 MR. BELKA: Nick, usual stipulations?  
2 Do you want to read and sign?

3 MR. ROTSKO: Yes, please.

4 MR. BELKA: Okay. And so we will  
5 probably be on an expedited basis because the  
6 actual hearing in this matter is on the 22nd  
7 and so we have to submit it to the court before  
8 that and then he is going to need an  
9 opportunity to read it and sign it before then.

10 THE REPORTER: Okay. So ideally, what  
11 day would you like the transcript by?

12 MR. BELKA: Nick, that's a question for  
13 you -- oh, I guess it's a question for me.  
14 What are we at? Is it the 15th or 16th?

15 THE REPORTER: The 16th.

16 MR. ROTSKO: The 16th today.

17 MR. BELKA: And it's Wednesday. Friday,  
18 can we do it Friday?

19 MR. ROTSKO: Is it possible to get it  
20 tomorrow by any chance?

21 MR. BELKA: Well, but I have to pay for  
22 it if it's tomorrow.

23 MR. ROTSKO: If there's an additional  
24 fee, we would be willing to cover that.

25 MR. BELKA: That's fine. Tomorrow is

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—BRETT CHRISTIAN - 11/16/2022—

1 A. No, I have not.

2 Q. Okay. Have you ever been involved in a  
3 lawsuit before?

4 A. Not to my knowledge. I have never given  
5 testimony, never been in court in this type of  
6 circumstance outside of a parking ticket.

7 Q. Okay. Is it all right if I explain the rules  
8 of a deposition to you very briefly?

9 A. Yes. That would be fine.

10 Q. Okay. So a deposition is testimony taken as  
11 if you were on the stand in court. Do you  
12 understand that?

13 A. Yes.

14 Q. And in that capacity, you have been sworn in  
15 under oath. Do you understand that?

16 A. Yes, I do.

17 Q. Okay. And is there anything that would  
18 prevent you from telling the truth today  
19 during this deposition?

20 A. Not to the best of my knowledge.

21 Q. Do you have -- have you taken any medication  
22 that would prevent you from telling the truth  
23 today?

24 A. No, I have not.

25 Q. Have you taken alcohol or illegal drugs that

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1           would prevent you from testifying?

2           A. No, I have not.

3           Q. One thing to know about a deposition is that  
4           it's not like a usual conversation. You have  
5           to wait until the end of my question and then  
6           answer the question. Do you understand?

7           A. Yes.

8           Q. The goal here is to make a clear record of the  
9           question and answer for the court reporter and  
10          the best way to do that even if you anticipate  
11          the answer is to not speak over each other.  
12          Is that understood?

13          A. Yes.

14          Q. Okay. So is it fair that to the best of your  
15          knowledge and recollection I will get the  
16          truth from you here today to the questions  
17          that I ask you?

18          A. Yes.

19          Q. I don't anticipate this to be a particularly  
20          long deposition. However, if you need a  
21          break, just let me know and I will ask you to  
22          answer whatever pending question before we  
23          take a break or if you need to go to the  
24          bathroom, okay?

25          A. Understood.

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1 Q. Okay. Do you have any questions for me about  
2 your deposition today?

3 A. At this time, I do not.

4 Q. How did you come to be a plaintiff in this  
5 lawsuit?

6 A. Well --

7 MR. ROTSKO: Objection to the extent it  
8 calls for attorney-client privilege  
9 information.

10 Q. You still have to answer to the extent -- I  
11 don't want you to -- let's make this clear for  
12 the record.

13 I am not asking you for any information  
14 or communication that you have received  
15 directly from your attorneys, okay? But I am  
16 asking if you can tell me how you came to be a  
17 plaintiff in this lawsuit without divulging  
18 any particular attorney-client information.

19 A. I approached them once the passage of the CCIA  
20 happened and seeing that what was written in  
21 black and white, how it would impact my life.  
22 I approached them and expressed interest in is  
23 there something that I could do by becoming a  
24 plaintiff that might help to rectify how I  
25 feel my rights have been infringed upon.

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1 Q. Who is them in that sentence? Who did you  
2 approach?

3 A. I approached FPC, Firearms Policy Coalition  
4 and Second Amendment Foundation.

5 Q. And how did you approach these two  
6 organizations?

7 A. I both called and emailed.

8 Q. And when you approached these organizations  
9 about being a plaintiff in a Second Amendment  
10 lawsuit, what was the response?

11 A. They asked me some initial questions to gain  
12 some information about me as a person and then  
13 we proceeded from there.

14 Q. Can you recall what any of those initial  
15 questions were and were they -- strike that.

16 Can you recall the manner in which you  
17 received the initial questions?

18 A. The initial questions, to the best of my  
19 knowledge, were a phone conversation.

20 Q. And who did you speak with?

21 A. That would have been a lawyer named John from  
22 what I can remember.

23 Q. And --

24 MR. ROTSKO: And the contents of that  
25 would be privileged.

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—BRETT CHRISTIAN - 11/16/2022—

1 MR. BELKA: That's fine. Well,  
2 depending.

3  
4 BY MR. BELKA:

5 Q. What organization did John work for?

6 A. I believe, to the best of my knowledge, that  
7 would be Firearms Policy Coalition.

8 MR. ROTSKO: If I may interject, Ryan.  
9 And I don't want to slow you down, but let's  
10 talk about the last name because if it's John  
11 Tienken, he's an attorney at Cooper & Kirk and  
12 that would be privileged.

13 MR. BELKA: I understand.

14  
15 BY MR. BELKA:

16 Q. So do you know if the John that you spoke to  
17 after you initially approached the two  
18 organizational plaintiffs in this case was  
19 named John Tienken?

20 A. Yes.

21 Q. And that was your first contact after having  
22 called and email the organizational  
23 plaintiffs?

24 A. To the best of my knowledge, yes.

25 Q. At the time of your initial phone conversation

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1 with John Tienken, did you enter into an  
2 attorney-client relationship with him?

3 A. Yes. They agreed to take me on as a  
4 plaintiff.

5 MR. BELKA: Nick, I am going to ask just  
6 so that you can object, okay?

7

8 BY MR. BELKA:

9 Q. Can you please tell me the content of the  
10 questions and responses you gave to John  
11 Tienken in that initial conversation?

12 MR. ROTSKO: Objection. I would direct  
13 Mr. Christian not to answer because that  
14 statement clearly calls for attorney-client  
15 privileged communications.

16 MR. BELKA: And, Nick, is it fair to say  
17 that any questions that I ask regarding  
18 Mr. Christian's communications with attorneys  
19 at Cooper & Kirk will be -- he will be directed  
20 not to answer under the guise of  
21 attorney-client privilege?

22 MR. ROTSKO: I will object when  
23 questions would elicit attorney-client  
24 communications.

25

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1 BY MR. BELKA:

2 Q. Did you have any further conversations with  
3 John Tienken after that initial call?

4 A. Yes. There has been emails and phone  
5 conversations.

6 Q. Okay. Can you tell me the content of those  
7 emails and phone conversations?

8 MR. ROTSKO: Same objection.

9 Q. Have you had any other communications with  
10 other attorneys at Cooper & Kirk?

11 A. I do not remember if they worked for that  
12 particular law firm because there has -- as  
13 this has gone on, more and more people have  
14 become involved. I am not the best with last  
15 names. A little bit better with first names.

16 Q. Did you have a conversation with Sam today?

17 A. Yes, I did.

18 MR. BELKA: All right. Sam, what's your  
19 last name?

20 MR. WILLIAMS: Williams.

21

22 BY MR. BELKA:

23 Q. Okay. Did you have a conversation with Sam  
24 Williams today?

25 A. That's correct.

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1 Q. And do you understand that he's an attorney at  
2 Cooper & Kirk?

3 A. Yes.

4 Q. Okay. Can you tell me what you guys said to  
5 each other?

6 MR. ROTSKO: Objection.

7 Q. When did you first become involved with the  
8 Firearms Policy Coalition?

9 MR. ROTSKO: Objection. Vagueness of  
10 involved.

11 Q. That's fair. I am going to restate.

12 Brett, when did you first become a  
13 member of the Firearms Policy Coalition?

14 A. I do not remember the exact date. I just know  
15 that I recently this year towards the end of  
16 August renewed my memberships to multiple  
17 organizations.

18 Q. When you say "multiple organizations," do you  
19 have a number of organizations in your mind?

20 A. Approximately, between three to four.

21 Q. Okay. Can you list them for me?

22 A. Firearms Policy Coalition, Gun Owners of  
23 America, Second Amendment Foundation and New  
24 York State Rifle Pistol Association, if I am  
25 pronouncing that correctly.

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1 Q. Is that also sometimes referred to as NYSRPA?

2 A. That would be correct.

3 Q. Do you know if you let your membership of any  
4 of these four organizations lapse prior to the  
5 end of August of this year?

6 A. Not that I am aware of.

7 Q. As it relates to the Firearms Policy  
8 Coalition, prior to August 2022, can you  
9 recall how far back were you a member of the  
10 Firearms Policy Coalition?

11 A. I cannot remember the exact timeframe on that.

12 Q. Do you recall if you were a member of the  
13 Firearms Policy Coalition in the year 2021?

14 A. Approximately, the earliest memory I have  
15 would be around the passage of the SAFE Act  
16 around 2013, approximately.

17 Q. Is it fair to say that you joined the Firearms  
18 Policy Coalition in and around the date of the  
19 passage of the New York SAFE Act, S-A-F-E?

20 A. Yes.

21 Q. And whether or not it's an accurate  
22 recollection, you believe that that was  
23 sometime around 2013?

24 A. Yes, to the best of my knowledge.

25 Q. What did you have to do in 2013 to become a

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1 member of the Firearms Policy Coalition?

2 A. To the best of my knowledge, I am trying to  
3 remember that far back. You had to provide  
4 address, name, there was a membership fee.  
5 Back then I believe I would have just sent  
6 cash. I was a little more naive with the  
7 mail, if you will.

8 Q. Is that it, your address, name and cash?

9 A. I believe so, to the best of my knowledge.

10 Q. Do you recall between 2013 and August of 2022  
11 renewing your membership at any point in time  
12 for the Firearms Policy Coalition?

13 A. I cannot remember definitive dates. I do  
14 remember sending money.

15 Q. On how many occasions between 2013 and  
16 August 2022 do you recall having sent money to  
17 the Firearms Policy Coalition?

18 A. There would be the yearly membership and then  
19 depending on what court cases were going on  
20 nationally, I would send extra to help.

21 Q. How would you be alerted to yearly membership  
22 dues?

23 MR. ROTSKO: I am going to object to the  
24 relevance of this line of questioning. I don't  
25 see what it has to do with the standing of

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—BRETT CHRISTIAN - 11/16/2022—

1 Mr. Christian during this lawsuit. You can  
2 answer the question, though.

3 MR. BELKA: Also, the deposition is not  
4 limited to issues of standing. His affidavit  
5 makes it clear that he is a member of these  
6 organizations and I am interested in looking at  
7 that.

8 MR. ROTSKO: You did request a  
9 deposition to address the issues of standing.

10 MR. BELKA: I am going to get -- all  
11 right.

12 MR. ROTSKO: And yes, he did testify  
13 that he is a member of FPC and he confirmed  
14 that for you today.

15 MR. BELKA: Right.

16 THE WITNESS: Can you please ask it  
17 again?

18 MR. BELKA: I am going to have the court  
19 reporter read it back.

20  
21 (The question was read.)

22  
23 THE WITNESS: Usually I would get  
24 letters, flyers, information packets in the  
25 mail.

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—BRETT CHRISTIAN - 11/16/2022—

1 BY MR. BELKA:

2 Q. And how would you be alerted to extra court  
3 cases that you would be willing to provide  
4 extra money for?

5 A. Either word of mouth or looking online at  
6 their website, looking at various cases they  
7 are involved in that I would consider to be of  
8 importance.

9 Q. Did you look at the website of the Firearms  
10 Policy Coalition before you called and emailed  
11 to become a plaintiff in this case?

12 A. Yes.

13 Q. Did you notice any requests for plaintiffs on  
14 the Firearms Policy Coalition, to contact them  
15 if you wanted to be a plaintiff?

16 A. That I did not.

17 Q. I just want to be clear. Prior to  
18 volunteering to be a plaintiff in this case  
19 you had looked at the Firearms Policy  
20 Coalition website, correct?

21 A. Correct.

22 Q. And you have never seen anything on the  
23 Firearms Policy Coalition website that seeks  
24 plaintiffs to challenge Second Amendment  
25 issues?

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—BRETT CHRISTIAN - 11/16/2022—

1 A. I have not. I am very tunnel vision focused  
2 so when I would go to their website right at  
3 the top there is the tab and I would ignore  
4 everything else I see and just click ongoing  
5 legal action.

6 Q. Okay. And is it your testimony that the only  
7 portion of the Firearms Policy Coalition  
8 website that you looked at would be the  
9 ongoing legal action section?

10 A. Yes.

11 Q. How did you get the contact information in  
12 order to offer your services as a plaintiff to  
13 the Firearms Policy Coalition?

14 MR. ROTSKO: Objection to the  
15 characterization of what Mr. Christian is doing  
16 here.

17 MR. BELKA: You still have to answer.

18 MR. ROTSKO: You may answer.

19 THE WITNESS: Can you ask it again,  
20 please?

21  
22 (The question was read.)

23  
24 THE WITNESS: A combination of word of  
25 mouth locally as well as online.

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—BRETT CHRISTIAN - 11/16/2022—

1 BY MR. BELKA:

2 Q. When you say "online," what do you mean?

3 A. Various pro Second Amendment news  
4 organizations.

5 Q. Do you have those various pro Second Amendment  
6 news organizations in your mind at this time?

7 A. Some, but not all.

8 Q. Okay. Can you list for me the ones that you  
9 have in your mind at this time?

10 A. Thetruthaboutguns.com, Bearingarms.com, as  
11 well as YouTube creators, presenters,  
12 reporters. I am not sure what the correct  
13 phrasing for that would be.

14 Q. I think the noun is YouTubers. Does that  
15 sound right?

16 A. I could agree to that, yes.

17 Q. Okay. So various YouTubers that you found  
18 that are pro Second Amendment?

19 A. Correct.

20 Q. Okay. Do you know if any of the -- do you  
21 know if Thetruthaboutguns.com is affiliated  
22 with the Firearms Policy Coalition?

23 A. I do not.

24 Q. Do you know if Bearingarms.com is affiliated  
25 with the Firearms Policy Coalition?

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1 A. I do not.

2 Q. Do you know if any of the various YouTubers  
3 who you have identified are associated with  
4 the Firearms Policy Coalition?

5 A. I do not.

6 Q. Do you know any of the names of those  
7 YouTubers?

8 A. There would be Mrgunsngear. That would be one  
9 of them. That would be the primary one.  
10 There was also -- he passed away, but Chuck  
11 Yeager was very active as well. There is a  
12 YouTuber by the name of Garand Thumb. Him as  
13 well.

14 Q. When you called and emailed to offer your  
15 services as a plaintiff you mentioned both the  
16 Firearms Policy Coalition and the Second  
17 Amendment Foundation, correct?

18 A. Correct.

19 Q. Do you know which one of them you contacted or  
20 -- strike that.

21 Do you know which one of them you  
22 called?

23 A. First was Firearms Policy Coalition and then  
24 second was the Second Amendment Foundation.

25 Q. What was the gap in time between your first

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—BRETT CHRISTIAN - 11/16/2022—

1 call to the Firearms Policy Coalition and your  
2 second call to the Second Amendment  
3 Foundation?

4 A. It was same day.

5 MR. ROTSKO: Objection.

6 Q. Did you also call Gun Owners of America?

7 A. Well, that would be same day as well.

8 Q. Did you also call NYSRPA?

9 A. All on the same day.

10 Q. Did you call any other organizations other  
11 than the four that we have discussed?

12 A. No.

13 Q. When you called did you talk to an individual  
14 or leave a voicemail?

15 A. Some were voicemails. Some were individuals  
16 that took my information and said someone  
17 would contact you back. I also sent to Second  
18 Amendment Foundation and Firearms Policy  
19 Coalition emails as well expressing my  
20 interest.

21 Q. What email address did you use to send those  
22 emails to Firearms Policy Coalition and Second  
23 Amendment Foundation?

24 A. I believe that would be my primary email,  
25 Bchristian189@gmail.com.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. What's the significance of 189?

2 A. It is what Google assigned it when I tried to  
3 create it.

4 Q. It's fair to say that 189 has no  
5 representative meaning to you?

6 A. That is correct.

7 Q. Did you also email Gun Owners of America?

8 A. I cannot definitively remember either way.

9 Q. And do you recall if you emailed NYSRPA as  
10 well?

11 A. I cannot definitively remember either way on  
12 that one as well.

13 Q. Okay. When you heard back from John Tienken,  
14 did you understand that he was calling on  
15 behalf of your -- strike that.

16 When you heard back from John Tienken,  
17 did you understand that he was calling you in  
18 response to your calls and emails to Firearms  
19 Policy Coalition and the Second Amendment  
20 Foundation?

21 A. Yes.

22 MR. ROTSKO: Objection. Objection. The  
23 communications between Mr. Christian and John  
24 Tienken are subject to the attorney-client  
25 privilege and the communications between

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1 Mr. Christian and the Firearms Policy Coalition  
2 and the Second Amendment Foundation are subject  
3 to the work product protections as well as  
4 common interest privilege.

5 So I am going to direct Mr. Christian  
6 not to testify to any contents of his  
7 communications between he and the other two  
8 plaintiffs concerning the litigation or between  
9 he and counsel, either Phillips Lytle or Cooper  
10 & Kirk, nor to his mental impressions formed  
11 after such conversations because that is a way  
12 of revealing the contents of those  
13 communications.

14  
15 BY MR. BELKA:

16 Q. Do you understand the nature of the lawsuit in  
17 which you are a plaintiff?

18 A. Yes, I do.

19 Q. What is the nature of the lawsuit in which you  
20 are a plaintiff?

21 A. It is in regards to parts or sections of the  
22 CCIA that have directly effected me that I  
23 feel have violated my constitutional rights.

24 MR. BELKA: Can you read back that  
25 answer?

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1 (The answer was read.)

2

3 BY MR. BELKA:

4 Q. Other than the parts and sections of the --  
5 strike that.

6 When you say the CCIA, is that shorthand  
7 for the Concealed Carry Improvement Act?

8 A. That would be correct.

9 Q. And if I say CCIA, you will understand that I  
10 mean the Concealed Carry Improvement Act?

11 A. Correct.

12 Q. Other than the parts and sections of the CCIA  
13 that you are challenging in this lawsuit, do  
14 you believe that any other section of the CCIA  
15 violates your constitutional rights?

16 MR. ROTSKO: Objection to the extent it  
17 calls for legal conclusions.

18 Q. You still have to answer.

19 A. Okay. I can only speak --

20 MR. ROTSKO: You can answer, Brett.

21 A. Oh, okay. I can only speak on the parts that  
22 have directly effected me. I can't speak on  
23 the other parts as I don't feel at this time  
24 they have effected me with what I do.

25 Q. What are the parts and sections of the CCIA

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1           that you have challenged in this lawsuit?

2           A. There is the section on how it relates to  
3           private property. There is the section on  
4           relating to parks in New York State. I  
5           apologize. My brain went blank completely for  
6           a second.

7           Q. That's okay. I will ask it again. What parts  
8           or sections of the CCIA have you challenged in  
9           this lawsuit?

10          A. Parks in New York State, private property and  
11          public transportation.

12          Q. Do you recall drafting a declaration regarding  
13          the parts and sections of the CCIA that you  
14          have challenged in this lawsuit?

15          A. Yes.

16          Q. Okay. Did you, Brett Christian, physically  
17          type the declaration that you submitted in  
18          this case?

19                 MR. ROTSKO: Objection. Work product  
20          privilege.

21          Q. You still have to answer.

22          A. I submitted --

23                 MR. ROTSKO: No. No. You don't have to  
24          answer. Who types a declaration is --

25                 MR. BELKA: It's a --

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—BRETT CHRISTIAN - 11/16/2022—

1 MR. ROTSKO: -- an action taken further  
2 into litigation. It's irrelevant as well. He  
3 swore to the words.

4  
5 BY MR. BELKA:

6 Q. Understanding that your lawyer has directed  
7 you not to answer my prior question, did you  
8 review the declaration that you submitted in  
9 this case -- strike all of that.

10 Understanding that your counsel has  
11 directed you not to answer my question  
12 concerning who drafted the declaration, did  
13 you have an opportunity to review the  
14 declaration you submitted in this case prior  
15 to its submission?

16 A. Yes. I have reviewed it.

17 Q. Okay. And when you reviewed it, what did you  
18 do with it?

19 MR. ROTSKO: Objection. The word what  
20 is kind of vague in this context.

21 Q. That's fair.

22 Where did you first review the  
23 declaration that you submitted in this case?

24 A. I reviewed that in my primary residence and  
25 read through it.

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1 Q. And how did you receive it? In hard copy, by  
2 email? How did you get it?

3 A. Primarily through email.

4 Q. When you say "primarily," why is it qualified?  
5 Did you receive the declaration by email?

6 A. Yes. And then I would sometimes read it in  
7 the email and sometimes print it out and then  
8 read it.

9 Q. Understood. How long did you take to review  
10 the declaration you submitted in this case?

11 A. Days.

12 Q. When you say "days," can you approximate the  
13 number of hours you took in reviewing the  
14 language of the declaration that was submitted  
15 in this case?

16 A. I would read it for an hour, hour and a half  
17 line-by-line. I would wait, come back to it a  
18 couple hours later, maybe the next day and  
19 read it again and once I felt -- again, I am  
20 not a professional lawyer so sometimes I have  
21 to, pardon the phrase, Google legal speak to  
22 try and understand because my goal is to have  
23 everything as accurate as I possibly can to  
24 the best of my knowledge.

25 Q. And when you signed the declaration, is it

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1 fair to say that you made it as accurate as  
2 you possibly could to the best of your  
3 knowledge?

4 A. Yes.

5 Q. You said that you renewed your membership to  
6 the organization Second Amendment Foundation  
7 in August of 2022. Do you recall that  
8 testimony?

9 A. Yes.

10 Q. When did you first become a member of the  
11 Second Amendment Foundation?

12 A. To the best of my knowledge, sometime between  
13 within a month either way of the passing of  
14 the SAFE Act in 2013.

15 Q. And do you recall what materials you submitted  
16 related to your membership in 2013 to the  
17 Second Amendment Foundation?

18 A. That would have been contact information as  
19 well as money for having a paid membership.

20 Q. And did you renew your membership to the  
21 Second Amendment Foundation between the years  
22 2013 and August 2022?

23 A. To the best of my knowledge, yes. There might  
24 have been where it lapsed for a year because I  
25 forgot due to being busy with work and life.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Do you have in your mind any definitive dates  
2 in which your membership lapsed regarding the  
3 Second Amendment Foundation?

4 A. I cannot be definitive on that.

5 Q. Okay. Do you recall any period of time in  
6 which your membership lapsed with regards to  
7 the Firearms Policy Coalition?

8 A. That I cannot.

9 Q. Meaning, you can't recall?

10 A. I cannot recall that specific information, no.

11 Q. Do you have any reason to believe that your  
12 membership lapsed at any point between 2013  
13 and August 2022 regarding your membership to  
14 the Firearms Policy Coalition?

15 A. To the best of my knowledge, I cannot  
16 guarantee because the U.S. Mail has for some  
17 reason had an historically tough time  
18 delivering all of my mail to me. So I don't  
19 always get everything in the mail in a timely  
20 fashion.

21 Q. I am asking if you have any reason to believe  
22 that your membership to the Firearms Policy  
23 Coalition lapsed between the years 2013 and  
24 August 2022?

25 A. I don't believe so.

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1 Q. Do you have any reason to believe that your  
2 membership lapsed with regard to the Second  
3 Amendment between the years 2013 and  
4 August 2022?

5 A. I don't believe so.

6 Q. In your mind if there is a lapse in membership  
7 in either of these two organizations, it was  
8 due to ineffective mail carrying?

9 A. Correct.

10 Q. What is your reasoning to believe that there's  
11 a possibility of ineffective mail carrying  
12 between the years 2013 and August 2022?

13 A. I have lived at different addresses throughout  
14 the time.

15 Q. That's it?

16 A. Yes.

17 Q. Okay. As it relates to the sections of the  
18 CCIA that you have challenged related to  
19 private property, have you been arrested under  
20 that provision?

21 A. As of currently today, I have not been  
22 arrested.

23 Q. Have you been approached by law enforcement to  
24 arrest you for violations of the CCIA  
25 regarding the sections on private property?

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1 A. As of today, I have not.

2 Q. Have you been arrested related to the sections  
3 relating to New York State Parks that you have  
4 challenged under the CCIA?

5 A. As of today, I have not.

6 Q. Have you been approached by law enforcement to  
7 enforce the New York State Parks provisions of  
8 the CCIA?

9 A. As of today, I have not.

10 Q. Have you been arrested related to the public  
11 transportation sections of the CCIA that you  
12 have challenged in this lawsuit?

13 A. As of today, I have not.

14 Q. And have you been approached by law  
15 enforcement regarding the public  
16 transportation sections of the CCIA that you  
17 have challenged in this lawsuit?

18 A. As of today, I have not.

19 Q. When you say "as of today," you mean from the  
20 beginning of the world until today, correct?

21 A. That's correct. I do not have a crystal ball.  
22 I don't know what tomorrow may bring and I do  
23 not wish to guess at the future.

24 Q. All right. Do you recall the testimony about  
25 reviewing the words in your declaration that

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—BRETT CHRISTIAN - 11/16/2022—

1           you were submitting in this case?

2           A. Yes.

3           Q. Okay. You mentioned that you would  
4           intermittently review the declaration to  
5           assure its accuracy to the best of your  
6           knowledge?

7           A. That's correct.

8           Q. Can you approximate for me the amount of time,  
9           understanding that it was intermittent, that  
10          you took to review the declaration?

11                  MR. ROTSKO: Objection. Work product.  
12          You can answer that one, though, Brett.

13          A. If I had to estimate to the best of my  
14          knowledge as I was not using a stopwatch to  
15          keep track, I would put the total time  
16          reviewing it between six to eight hours.

17          Q. And that's six to eight hours of reading,  
18          Googling, trying to figure out what the words  
19          say and mean?

20          A. That would be correct.

21          Q. And at the end of six to eight hours of work  
22          on the declaration, you felt satisfied that it  
23          represented the truth of this matter as it  
24          related to you?

25          A. As humanly possible, yes.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Prior to the renewal of your memberships --  
2 strike that.

3 Is it fair if I call the four  
4 organizations that you renewed your  
5 memberships to in August 2022 as gun rights  
6 groups?

7 A. Yes.

8 Q. I don't want to be unfair about it. I just  
9 want to categorize them and I am offering the  
10 term gun rights groups to categorize those  
11 four organizations. Is that fair?

12 A. I have referred to them as civil rights  
13 organizations because I consider what is in  
14 the Constitution, the Bills of Rights  
15 everybody's civil rights. So I tend to use  
16 that phrase more.

17 Q. Okay. Is it okay if I say gun rights groups?  
18 You will know what I am talking about?

19 A. Yes.

20 Q. Okay. And if I say gun rights groups, I am  
21 talking about these four organizations that  
22 you renewed your memberships to in August  
23 2022, okay?

24 A. Understood.

25 MR. ROTSKO: I have an objection to the

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—BRETT CHRISTIAN - 11/16/2022—

1 defined term because to the extent you ask  
2 questions about "gun rights groups" and that  
3 definition lumps in two other advocacy  
4 organizations that are not party to this  
5 lawsuit and have nothing to do with  
6 Mr. Christian's standing, I don't want the  
7 questions to extend to those groups when you  
8 are asking about Firearms Policy Coalition and  
9 SAF for the sake of clarity.

10 Q. That's fair.

11 Prior to August 2022, did you have any  
12 social media accounts?

13 A. Yes.

14 Q. Where were your social media accounts located  
15 prior to August 2022?

16 A. I am not quite sure I understand the question.  
17 I apologize.

18 Q. Do you know what a social media account is?

19 A. Yes.

20 Q. Okay. What is your understanding of a social  
21 media account?

22 A. That would be things like -- I am dating  
23 myself, but Myspace, Facebook, Instagram.  
24 That's -- I am sure there are others. I am  
25 not a big computer person for -- I like to

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1 keep my life very private.

2 Q. Understood. Prior to August 2022, did you  
3 have any social media accounts?

4 A. Yes.

5 Q. Okay. Where did you have those social media  
6 accounts?

7 MR. ROTSKO: Objection to the word  
8 where. Where is kind of vague.

9 Q. Fair. I will rephrase.

10 With what organizations did you have  
11 social media accounts prior to August 2022?

12 A. That would be Facebook.

13 Q. Prior to August 2022, did you make postings on  
14 your social media account at Facebook?

15 A. Yes.

16 Q. Prior to August 2022, did you ever post  
17 regarding Second Amendment issues on your  
18 account at Facebook?

19 A. To the best of my knowledge, I can't  
20 definitively say either way because I tend to  
21 not want to put a lot out there for political  
22 opinions or such things. I am trying to think  
23 how to phrase it here. Bear with me.

24 Much like bumper stickers on cars  
25 putting it out there, you are never going to

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—BRETT CHRISTIAN - 11/16/2022—

1           convince someone to an opposing viewpoint  
2           where suddenly they see a bumper sticker and  
3           change. So to me all it serves to do is cause  
4           riffs, stress, fighting amongst people. I  
5           tend to just not like to do that.

6           Q. Within your consideration of becoming a  
7           plaintiff in this lawsuit, did you alter in  
8           any way your prior Facebook posts?

9           A. Not that I am aware of, to the best of my  
10          knowledge.

11          Q. Did you or anyone on your behalf review your  
12          Facebook posts around the time -- strike that.

13                 In your consideration of becoming a  
14          plaintiff in this case, did you or anyone on  
15          your behalf alter past Facebook postings?

16          A. Not that I am aware of.

17          Q. Did you ever provide account information to  
18          anyone in order to review your social media  
19          posts?

20          A. Yes.

21          Q. Who did you provide information to -- account  
22          information to regarding your social media  
23          posts?

24          A. Firearms Policy Coalition, my girlfriend. I  
25          have had an employer ask to see such things.

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—BRETT CHRISTIAN - 11/16/2022—

1 That was back in the time of Myspace.

2 Q. I want to be clear. I am talking about during  
3 the period of time in which you were  
4 considering becoming a plaintiff in this case  
5 did you provide social media account  
6 information to anyone?

7 A. Yes. To Firearms Policy Coalition in that  
8 timeframe.

9 Q. What did you understand the purpose of your  
10 providing social media account information to  
11 Firearms Policy Coalition?

12 MR. ROTSKO: I am going to object to the  
13 relevance of Facebook to Mr. Christian's  
14 standing, but Brett, feel free to answer the  
15 question.

16 MR. BELKA: I am going to have her read  
17 it back.

18

19 (The question was read.)

20

21 THE WITNESS: To the best of my  
22 knowledge, to verify, because this was  
23 primarily email, phone calling, that I was who  
24 I said I was.

25

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—BRETT CHRISTIAN - 11/16/2022—

1 BY MR. BELKA:

2 Q. When you say "primarily," do you believe that  
3 there was any other reason why you would  
4 provide social media account information to  
5 Firearms Policy Coalition around the time you  
6 were considering becoming a plaintiff in this  
7 case?

8 A. Not that I am aware of. I do not have reason  
9 to believe otherwise.

10 Q. And it's your position that you don't know if  
11 somebody altered posts on your behalf in and  
12 around the time you were considering becoming  
13 a plaintiff in this case?

14 MR. ROTSKO: Objection. I don't think  
15 that was the testimony.

16 MR. BELKA: I am asking him.

17 MR. ROTSKO: I believe you asked him if  
18 it was his testimony.

19 MR. BELKA: No.

20 MR. ROTSKO: You can read it back from  
21 the reporter.

22 MR. BELKA: We are.

23  
24 (The question was read.)  
25

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1 MR. ROTSKO: So had you asked him  
2 already about that question?

3 MR. BELKA: I am asking if it's his  
4 position now. All right. Would you mind  
5 reading it back -- I am not asking to confirm  
6 prior testimony. I am asking if it's your  
7 position, okay? And I want you to read that  
8 question back.

9

10 (The question was read.)

11

12 THE WITNESS: That is correct.

13 MR. BELKA: We have been going for about  
14 an hour. Why don't we take a five-minute break  
15 and come back? Is that okay with everyone?

16 MR. ROTSKO: Yep.

17

18 (Recess was taken.)

19

20 BY MR. BELKA:

21 Q. How do you think that the CCIA restricts your  
22 rights as it relates to public transportation?

23 A. It prevents me from doing what I previously  
24 had done frequently by being able to when  
25 traveling the Buffalo subway system, which

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1 granted not a lot of people know it still  
2 exists, going from the suburbs to downtown,  
3 being able to carry my firearm with me  
4 legally. I no longer can do that based upon  
5 what's written in black and white in the New  
6 York State Penal Code.

7 Q. How would you travel from the suburbs downtown  
8 using public transportation?

9 A. It would primarily be one of the first three  
10 stations. There's either University Station,  
11 there is LaSalle and then Amherst Street  
12 Station. And then driving, parking somewhere  
13 nearby, walking in, paying the 4 or 5 bucks  
14 for a round trip ticket and then riding it all  
15 the way down to it ends right at Canalside at  
16 the arena.

17 Q. What kind of car do you own?

18 A. Currently, I own a 2023 Honda HR-V.

19 Q. Is that your daily form of transport?

20 A. Yes.

21 Q. And you can drive your 2023 Honda HR-V  
22 downtown if you choose, correct?

23 A. Yes.

24 Q. Do you own any other cars?

25 A. No, I do not.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. This is only a question as it relates to  
2 access to cars, okay?

3 Mr. Christian, are you married?

4 A. I am not.

5 Q. Do you have other members of your household?

6 A. I am a single person household.

7 Q. So it's fair to say that the only access to a  
8 car that you have is the 2023 Honda HR-V that  
9 you previously testified to?

10 A. That would be correct.

11 Q. Okay. You understand why I am asking?

12 A. Yes.

13 Q. Okay. Prior to your 2023 Honda HR-V, what car  
14 did you have?

15 A. The previous one was a 2020 Honda Accord.

16 Q. And prior to the 2020 Honda Accord?

17 A. That would have been a 2017 Buick LaCrosse.

18 Q. I am just going to go one more back. What was  
19 before the 2017 Buick LaCrosse?

20 A. That was a 2013 Buick Regal GS. I can go back  
21 to the first car that I had, if need be.

22 Q. I am just trying to go back in time a little  
23 bit. It appears you get a car approximately  
24 every three years. Does that sound right?

25 A. Approximately so, yes.

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1 Q. Okay. And the 2014 Buick Regal GS, was that  
2 your daily transport at that time?

3 A. Yes.

4 Q. And could the 2014 Buick Regal GS drive  
5 downtown?

6 A. Yes.

7 Q. Okay. When you had the 2017 Buick LaCrosse,  
8 was that your daily transport?

9 A. That would be correct.

10 Q. And could the 2017 Buick LaCrosse travel  
11 downtown?

12 A. That would be correct.

13 Q. Okay. And when you had the 2020 Honda Accord,  
14 was that your daily transport?

15 A. Yes.

16 Q. And could the 2020 Honda Accord travel  
17 downtown?

18 A. Mechanically, yes. However, the theft of the  
19 wheels that come equipped on the model I had  
20 is -- the rate of theft is obscene to the  
21 wheels and that car I tended to not want to  
22 drive as much downtown because based upon  
23 experiences at my job, that there would be a  
24 great likelihood I would find it up on blocks  
25 as we have had many occurrences at work.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Where is your job?

2 A. Currently, it is at Ray Laks Honda in Orchard  
3 Park.

4 Q. How do you spell Ray Laks?

5 A. R-A-Y, space, L-A-K-S.

6 Q. And were the tires -- strike that.

7 What part of the 2020 Honda Accord was  
8 often stolen pursuant to anecdotes from your  
9 work?

10 A. In the last year we have had almost \$40,000 of  
11 damage done to vehicles because the model I  
12 had, the sport model that had 19-inch very  
13 attractive low profile sporty wheels, it is  
14 among the most stolen wheels in the country.  
15 In one year it was almost \$40,000 of wheels  
16 going missing due to theft.

17 Q. And did you ever have the wheels on your 2020  
18 Honda Accord stolen?

19 A. I did not because I would be very cautious  
20 about where I took the car and where I would  
21 park the car because of that reason.

22 Q. Regardless, the 2020 Honda Accord could get  
23 you downtown if you so chose?

24 A. Mechanically it could, yes.

25 Q. You mentioned that there are three locations

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1 -- strike that.

2 When you go on public transport from the  
3 suburbs downtown, what method of public  
4 transport do you take?

5 A. That would primarily be the subway system.

6 Q. What kind of subway system do we have in  
7 Buffalo?

8 A. We have -- of the original design and plans,  
9 we only have a single line subway that runs  
10 from the -- the University of Buffalo is  
11 adjacent to it. I don't want to call it city  
12 campus. It would be south campus I guess off  
13 Main Street in Amherst. That's the furthest  
14 point and then it runs in a single line all  
15 the way out to almost where -- just a little  
16 bit past where we are now by Canalside.

17 Q. All right. If I refer to the public transport  
18 method that you would regularly use from the  
19 suburbs to downtown, if I call that the  
20 Buffalo Light Rail, would we be talking about  
21 the same thing?

22 A. That would be correct.

23 Q. Okay. You mentioned three locations which you  
24 might sometimes board to get on the Buffalo  
25 Light Rail; is that right?

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1 A. That is correct.

2 Q. What were those three locations again?

3 A. University Station, LaSalle Street Station and  
4 Amherst Street Station. I believe that's how  
5 the Amherst one is pronounced.

6 Q. And how do you get yourself to University  
7 Station to take the Buffalo Light Rail?

8 A. I would drive my car up Main Street from my  
9 place of residence or wherever I would be,  
10 park either in the NFTA -- they have a ride  
11 and park, a commuter lot. I would either park  
12 there or I would park at -- there is a coffee  
13 shop further up from there on Main Street.  
14 There's a supermarket. Depending on if I was,  
15 say, getting a cup of coffee to take with me  
16 and then walk across to the station entrance.

17 Q. What's the name of that coffee shop?

18 A. It is Dunkin' Donuts.

19 Q. And what's the name of the supermarket?

20 A. I believe it is Tops.

21 Q. Does it cost money to leave your car in the  
22 NFTA Ride and Park?

23 A. It does not.

24 Q. Does it cost any money to leave your car at  
25 the Dunkin' Donuts parking lot?

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1 A. It does not.

2 Q. And does it cost any money to leave your car  
3 at the Tops supermarket parking lot?

4 A. It does not.

5 Q. Which of the three, NFTA Ride and Park  
6 commuter lot, the Dunkin' Donuts coffee shop  
7 and the Tops supermarket is closest in  
8 proximity to the University Station?

9 A. That would be the NFTA Ride and Park commuter  
10 lot. It is directly adjacent, if not part of  
11 it.

12 Q. Okay. And next in proximity between the  
13 three?

14 A. That would be the Dunkin' Donuts coffee shop,  
15 coffeehouse. I don't know the exact wording,  
16 but Dunkin' Donuts.

17 Q. Okay. And then it's your testimony then that  
18 the Tops supermarket is the furthest in  
19 distance from the University Station?

20 A. Correct.

21 Q. Where do you buy a ticket to ride the Buffalo  
22 Light Rail at University Station?

23 A. When you walk in the entrance, there are  
24 automated ticket like vending machines, for  
25 lack of a better word. And you can use cash,

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1           which is primarily what I use, and that's  
2           where you purchase your ticket to get through  
3           the -- I don't want to say turnstiles, but  
4           gate doors to go down the escalator to the  
5           station platform.

6           Q. When you purchase a ticket at the automated  
7           machine, what does that ticket look like?

8           A. It is like a very fat letter H. It has an  
9           indentation on the one side and an indentation  
10          on the other. So it looks like a big letter  
11          H. It has like a bar code strip and then  
12          something square, sparkly -- I don't want to  
13          say a hologram, but something sort of of that  
14          type.

15          Q. Is it fair to say that you provided your best  
16          recollection of what a ticket purchased at  
17          University Station might look like for the  
18          Buffalo Light Rail?

19          A. Yes. I don't know what to call that exact  
20          thing, but it's like a hologram. It's  
21          sparkly. This is the one from the last trip.

22          Q. All right. And since you have it with you,  
23          why don't I take that? Do you need this after  
24          today?

25          A. No. Because they are one way -- they are

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1 round trip tickets good for just that day.

2 MR. BELKA: Okay. So we are going to  
3 mark Mr. Christian's Buffalo Light Rail ticket  
4 as Exhibit Number 1. Any objection, Nick?

5 MR. ROTSKO: No.

6  
7 The following were marked for identification:  
8 Exhibit 1 - NFTA subway ticket  
9

10 MR. ROTSKO: We can have photocopies  
11 made of that while he's there.

12 MR. BELKA: Sure.

13  
14 BY MR. BELKA:

15 Q. I am handing you what's been marked as  
16 Exhibit 1 to your deposition. It's an NFTA  
17 Light Rail pass. Do you see it?

18 A. Yes.

19 Q. Okay. And --

20 MR. ROTSKO: Ryan, if I may interject  
21 for a moment.

22 MR. BELKA: Sure.

23 MR. ROTSKO: Because I can't see that  
24 ticket, I am going to give my objecting  
25 capabilities to Sam for a moment to make sure

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1           that the discussion about the ticket is  
2           accurate.

3                   MR. BELKA: I accept. Thanks for  
4           creating an accommodation because it's unusual.

5                   MR. ROTSKO: I can't figure out how to  
6           get that up on WebEx.

7

8           BY MR. BELKA:

9           Q. An NFTA Light Rail ticket has been placed in  
10          front of you. It's Exhibit 1 to your  
11          deposition. Do you see it?

12          A. I do.

13          Q. What's the date on that Light Rail ticket?

14          A. It was this past Sunday, the 13th.

15          Q. You are downtown today. You didn't take the  
16          Light Rail; is that right?

17          A. Correct.

18          Q. Okay. What car did you drive to get downtown  
19          today?

20          A. My 2023 Honda HR-V.

21          Q. Do you have a gun on you?

22          A. I do not.

23          Q. Why not?

24          A. The CCIA prevents me from doing so.

25          Q. Is that because Phillips Lytle prevented you

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1 from bringing a concealed weapon onto their  
2 property?

3 A. I was unable to bring one with me on person  
4 because I have never been in this building  
5 before and I don't know what signs are posted  
6 on the property. And if I brought it with me,  
7 I would have already entered the property  
8 before I would see the signs and, thus, I  
9 would have broken the law. So without having  
10 that definitive knowledge of it as explicitly  
11 stated on a sign that it is allowed, I chose  
12 to leave it at home.

13 Q. These are your lawyers. You could have called  
14 ahead and asked what their concealed carry  
15 policy is, correct?

16 A. Correct.

17 Q. Do you own a phone?

18 A. I do.

19 Q. Do you know how to use it?

20 A. Yes.

21 Q. Do you think you could have used your phone to  
22 acquire that information from your lawyers?

23 A. I am unsure because I don't know who the  
24 property owner is and the way that it reads, I  
25 would have to first figure out who the

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1 property owner is. And with the timeframe of  
2 I did not know weeks or months in advance of  
3 the exact location, I wasn't able to in time  
4 determine that.

5 Q. When did you first learn about this  
6 deposition?

7 A. I learned that it may be a thing that would  
8 need to happen roughly, approximately a couple  
9 weeks ago. However, the exact date, time,  
10 this is the address at this time, be here,  
11 that was -- the address was provided this  
12 morning to me. The time was provided to me on  
13 Monday.

14 Q. Have you ever called your lawyers -- this has  
15 nothing to do with attorney-client.

16 Have you ever called your lawyers to ask  
17 them a question?

18 A. Yes.

19 Q. Do you feel like you need permission to call  
20 your lawyers?

21 A. No, I do not.

22 Q. Could you have called your lawyers and asked  
23 the policy about concealed carry in the  
24 building you would have been entering today?

25 A. Yes. That could have been a possibility.

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1 Q. And do you think your lawyers would have told  
2 you the correct information as to their policy  
3 on concealed carry today?

4 A. Yes. I believe they would have.

5 Q. As it relates to public transportation, you  
6 note that you take the NFTA Metro Rail, which  
7 I have referred to as the NFTA Light Rail,  
8 when traffic or events downtown made driving  
9 impractical. Do you recall that testimony?

10 A. Yes, I do.

11 Q. In your mind, when does traffic make driving  
12 downtown impractical?

13 A. Monday through Friday and when major events  
14 like Sabres games, Taste of Buffalo and events  
15 such as those are going on, traffic is quite  
16 heavy at those times.

17 Q. How do you know traffic is heavy on Monday  
18 through Friday during Sabres games?

19 A. I have previously been to Sabres games.  
20 Either work -- the company that I work for has  
21 provided tickets for events as well as through  
22 the week I have made trips down here to go to  
23 either the Erie County Clerks's Office for  
24 adding an amendment or removing an amendment  
25 to my permit or to stop in to ask

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1 clarification about questions I have to make  
2 sure I am doing things the proper way.

3 But between the 190 and the 33, it is --  
4 the 33 in the morning you want to get here  
5 before 6:00 a.m. because it gets very accident  
6 prone and then throughout the day by noon,  
7 1 o'clock, it starts to pick up quite a bit  
8 into the evening. Not discounting Buffalo, of  
9 course, weather events we may have.

10 Q. Prior to August 2022, how often would you ride  
11 the Buffalo Light Rail?

12 A. Approximately two to three times a month, if  
13 not more.

14 Q. Is the Buffalo Light Rail the only form of --  
15 strike that.

16 Is the Buffalo Light Rail the only form  
17 of public transportation that you regularly  
18 take?

19 A. That would be correct.

20 Q. Is it fair to say -- I am looking at Exhibit 1  
21 now. November 13th, 2022 was the last time  
22 you used the Buffalo Light Rail?

23 A. Correct.

24 Q. What event made it impractical to go downtown  
25 using your car on November 13th, 2022?

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1       A. A combination of even with a Honda the price  
2       of gas as well as the convenience from  
3       University Station to Canalside, the last  
4       exit, is almost precisely 20 minutes. It's  
5       faster to do that than it is to drive, find a  
6       parking spot, pay for parking if it's through  
7       the week. Weekends sometimes things are free.  
8       It's simply a matter of this is faster and  
9       easier. I don't have to worry and deal with  
10      the hassle of it.

11      Q. Your affidavit -- strike that.

12               Your declaration says that you take the  
13      Buffalo Light Rail when traffic or events  
14      downtown make driving impractical, correct?

15      A. Correct.

16      Q. When you took the Buffalo Light Rail on  
17      November 13th, was that due to traffic or  
18      events downtown?

19      A. That was due to --

20               MR. ROTSKO: Objection. Asked and  
21      answered.

22      Q. You still have to answer.

23      A. An event in Orchard Park, not downtown.  
24      Everybody is on the thruway and the 33 headed  
25      to the Bills game around that time.

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1 Q. Where were you coming from when you took the  
2 Buffalo Light Rail on November 13th, 2022?

3 A. I left my primary -- my home, my place of  
4 residence, went up Main Street, parked in the  
5 ride and park section, walked in the entrance  
6 and got on the subway system, the Light Rail  
7 at the University Station there.

8 Q. Is it fair to say that the Bills game was the  
9 event that caused you to take the Light Rail  
10 on November 13th, 2022?

11 A. The primary motivation for that time, correct.

12 Q. Because you were worried about the traffic?

13 A. Correct.

14 Q. On November 13th, 2022 did you see any NFTA  
15 police officers on the Buffalo Light Rail?

16 A. No, I did not.

17 Q. On November 13th, 2022 did you see any New  
18 York State police officers on the Buffalo  
19 Light Rail?

20 A. No, I did not.

21 Q. Have you ever in the periods of time that you  
22 have taken the Buffalo Light Rail seen a New  
23 York State police officer?

24 A. Not on the Light Rail.

25 Q. Is it fair to say that New York State police

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1 officers -- strike that.

2 As of Sunday, November 13th, 2022, you  
3 understood that you had a deposition upcoming  
4 in this case, correct?

5 A. Correct.

6 Q. Did you -- strike that.

7 Did anyone suggest to you that you  
8 should take the Buffalo Light Rail in  
9 preparation for your deposition today?

10 A. No.

11 MR. ROTSKO: Objection to the extent  
12 that it calls for attorney-client  
13 communications. He has answered the question.

14 Q. Of the three stations from which you usually  
15 take the Buffalo Light Rail, University  
16 Station, LaSalle Station and Amherst Street  
17 Station, which one of those is the station  
18 from which you most regularly depart?

19 A. Most regularly would be University Station  
20 because it is the most accessible and closest.

21 Q. And of the three, University, LaSalle and  
22 Amherst Stations, which one do you go to the  
23 second most?

24 A. That would be LaSalle.

25 Q. And by reasons of deduction, the third most

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1 frequented station is Amherst Street Station,  
2 correct?

3 A. Correct.

4 Q. Your prior testimony was that you paid 4 or 5  
5 bucks for an NFTA Rail pass. Do you know  
6 whether or not it's 4 or 5?

7 A. I want to say it is approximately 4 bucks for  
8 a round trip ticket.

9 Q. Each time you ride the Buffalo Light Rail, you  
10 pay for it on that individual trip, correct?

11 A. Correct.

12 Q. And at two to three trips a month over a  
13 period of time, you are pretty regularly  
14 paying for single round trip tickets on the  
15 Buffalo Light Rail?

16 A. Correct.

17 Q. And while you think it's \$4, you also believe  
18 that it could be 5?

19 A. If you get an all day pass, it's more. I  
20 don't frequently do that. I usually just do  
21 the one round trip. The round trip might be  
22 \$4 and a penny or I don't remember if there's  
23 tax on it.

24 Q. Who do you hand your ticket to when you get on  
25 the Buffalo Light Rail?

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1 A. It's an unmanned system. When you walk  
2 through there is -- it used to be turnstiles.  
3 They have little dividers and there's two  
4 little door gates and there is a clear lens on  
5 what would have been a turnstile. You put the  
6 ticket over it, it reads it, it allows the  
7 gate to unlock and one person, you just push  
8 through. They are like saloon doors to use a  
9 laymen's term.

10 And then when you go to leave out of the  
11 underground stations, because that is the paid  
12 portion, you have to do the same thing to be  
13 able to exit. The above ground, from what I  
14 understand -- they are never my starting  
15 point, but those are all free.

16 Q. And I asked this. The type of public  
17 transport that you take is the Buffalo Light  
18 Rail?

19 A. Primary type, correct.

20 Q. Okay. And when you say "primary type," what  
21 are the other types of public transport that  
22 you take?

23 A. I may have in the last ten years once or twice  
24 taken public buses. I can't definitively  
25 remember either way and I don't want to guess.

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1 Q. But in Buffalo on the NFTA system, right?

2 A. Correct.

3 Q. Approximately when did you become licensed to  
4 carry a firearm in the State of New York?

5 A. Approximately somewhere between two to  
6 three years ago for a New York State concealed  
7 carry license.

8 Q. Did you have some other type of pistol permit  
9 prior to the concealed carry permit that you  
10 acquired two to three years ago?

11 A. No, I did not.

12 Q. How old are you?

13 A. 40. I feel old for saying that.

14 Q. Do you know at what age you can begin to have  
15 a pistol permit in New York State?

16 A. There's two answers to that. For 99 percent  
17 of people it is 21. I believe members of the  
18 U.S. Military that are active and serving can  
19 get one between 18 and 21, but I don't know  
20 anybody that ever has.

21 Q. And you are not an active member of the U.S.  
22 Military?

23 A. I am not.

24 Q. So the earliest you could have received some  
25 type of pistol permit in New York State is 21?

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1 A. Correct.

2 Q. And is it fair to say from the ages of 21 to  
3 37 you did not have any type of New York State  
4 pistol permit?

5 A. Yes.

6 Q. When you applied for your concealed carry  
7 permit two to three years ago, was it granted?

8 A. Yes.

9 Q. Did you have any guns that were registered  
10 with New York State at the time you received  
11 your concealed carry permit?

12 A. I had no pistols because there's no way to  
13 acquire, own, possess one in New York without  
14 one. I have lived in New York my whole life.  
15 For long guns I did not acquire any long guns  
16 that would have required SAFE Act registration  
17 when the SAFE Act took effect. So I had  
18 nothing that was registered then that was  
19 required per the law.

20 Q. So prior to having the concealed carry  
21 license, you did own and possess firearms?

22 A. Long guns, correct.

23 Q. How many long --

24 MR. ROTSKO: Objection. Just to be  
25 clear on the terminology, when we say

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1 "firearms," are we using the Penal Code  
2 definition of firearms?

3 MR. BELKA: I am about to drill down a  
4 little bit. Is that okay? Why don't you just  
5 object to vagueness or something? Just say  
6 Belka didn't define firearms, he's awful. Just  
7 put it on the record. We will keep going.

8 MR. ROTSKO: Please don't put on the  
9 record that I said that Mr. Belka is awful.  
10 That was him. Go ahead, Ryan.

11  
12 BY MR. BELKA:

13 Q. Okay. Between the ages of 21 and 37 you  
14 didn't own any pistols?

15 A. That's correct.

16 Q. You had no pistol permit in the State of New  
17 York?

18 A. Correct.

19 Q. At approximately the age of 37 you acquired a  
20 concealed carry permit?

21 A. Correct.

22 Q. Or concealed carry license?

23 A. License.

24 Q. Okay. After which you acquired some pistols?

25 A. That's correct.

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1 Q. Okay. Prior to receiving the concealed carry  
2 license, you have testified that you owned  
3 long guns?

4 A. Correct.

5 Q. Okay. How many long guns did you own at the  
6 time you acquired the concealed carry license?

7 A. Approximately, the number would be around a  
8 dozen.

9 Q. It's a gun case so I am going to ask you about  
10 these guns, okay? As it relates to these  
11 approximately a dozen long guns, can you name  
12 the type and manufacturer of each weapon?

13 A. Most of them I can.

14 Q. Go ahead. Number one?

15 A. Let me preface that. In New York there's  
16 almost -- in Erie County there's no place I  
17 know of to even rent a gun to try out. You  
18 have to acquire it first. So a lot of times I  
19 would go through the process of acquiring a  
20 gun to then use it for target shooting or  
21 whatever purpose and then I would find out  
22 that I hated it or back then I had a  
23 collector's license, an FFL license for the  
24 pure purpose of collecting curios, relics,  
25 historical. I was much more involved with

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1           that then. So I had a Remington 870 shotgun  
2           at one point.

3           Q. So I am not asking at any point in time. I am  
4           asking if you can to the best of your  
5           knowledge recall the dozen or so long guns  
6           that you had at the time you acquired your  
7           concealed carry license.

8           A. I had --

9                       MR. ROTSKO: Objection to the relevance  
10           of long guns to this lawsuit. Go ahead and  
11           answer.

12           A. I had a New York compliant Springfield Armory  
13           M1A. I had --

14           Q. Before you go on, what does New York compliant  
15           mean?

16           A. The firearm in its original configuration  
17           would violate the New York SAFE Act and would  
18           not be legal to have transferred to you or  
19           possess. So in order for me to acquire it,  
20           the previous owner had a federal firearms  
21           store, license. I don't know the correct  
22           wording there. They permanently affixed the  
23           magazine to the firearm, thus it was not a  
24           detachable magazine and thus met what the law  
25           spelled out.

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1 Q. Go ahead. We have a Remington 870 and a  
2 Springfield M1A.

3 A. I had a CZ. It's a Czechoslovakian company,  
4 Scorpion Evo, nine-millimeter pistol caliber  
5 carbine. I had a Savage Arms 110 Target  
6 Magnum target rifle, a Mossberg 500 shotgun  
7 and then a bolt action operated AR style  
8 firearm.

9 Q. When you say "AR style," what does that mean?

10 A. It is --

11 Q. What does AR stand for?

12 A. AR is a trademark term meaning ArmaLite rifle  
13 and then it would be Model 15. It has come to  
14 mean a whole category of firearms that are  
15 that type or that pattern.

16 Q. I am just asking what it meant to you.

17 A. Okay.

18 Q. So an ArmaLite rifle. There was a number in  
19 there.

20 A. It was -- the lower receiver was a different  
21 manufacturer from the upper. The upper is  
22 Young Manufacturing. I sourced all the parts  
23 and assembled it. The lower was Anderson and  
24 the gun I went out of my way to get a barrel  
25 that had no provisions for a gas port, so

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1           there was no way the firearm could ever be  
2           made to be semiautomatic and had it equipped  
3           with a bolt handle allowing you to manually --  
4           like any other hunting rifle or target rifle,  
5           you have to manually cycle each round.

6                     I went through considerable expense to  
7           acquire that and make that happen. Those are  
8           the ones that I can definitively in my head  
9           remember.

10          Q. Okay. So, I mean, I was counting. So I have  
11          six out of approximately a dozen long guns  
12          that you believe you possessed at the time you  
13          acquired your concealed carry license in the  
14          State of New York.

15          A. There's others, but I can't remember the exact  
16          make or manufacturer so I don't want to guess.

17          Q. When you received your concealed carry  
18          license, did you disclose or register any of  
19          your firearms on your concealed carry license?

20          A. For long guns, no because none of them were  
21          required per New York State Law.

22          Q. Since receiving your concealed carry license,  
23          you have acquired and registered a number of  
24          pistols?

25          A. Pistols and revolvers. I have noticed New

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1           York State -- to me that would mean the same  
2           thing, a handgun, but New York State on the  
3           license and Penal Code differentiates them.  
4           So both pistols and revolvers.

5           Q. Okay. Do we want to use the word handgun in  
6           order to encompass both of those?

7           A. Yes.

8           Q. Sounds great. How many handguns have you  
9           acquired since you received your concealed  
10          carry license from the State of New York?

11          A. Bought and sold -- I currently have 11. I  
12          have probably bought and sold, trying out to  
13          see what works and doesn't work for me,  
14          between 20 or 25, but that is an  
15          approximation. That's my best estimate.

16          Q. But you currently own 11?

17          A. 11, that's correct.

18          Q. Handguns?

19          A. Correct.

20          Q. How many long guns do you currently own?

21          A. Currently, four.

22          Q. Prior to your receipt of the -- strike that.

23                   Prior to the granting of your concealed  
24          carry license by New York State, did you own  
25          any handguns, the definition of which includes

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1 pistols and revolvers.

2 A. No. I had not even shot one.

3 Q. Why did you acquire a concealed carry license  
4 approximately two to three years ago?

5 A. When I applied and put in for the license and  
6 asked for unrestricted, which was granted, I  
7 have family -- less now because some have  
8 passed away, but I have a good portion of  
9 family that lives in Upstate New York;  
10 Massena, Malone area, Moira, Brushton. If  
11 anybody has ever heard of those areas, it is  
12 amazing because it's just the middle of  
13 nowhere.

14 Q. St. Lawrence County?

15 A. Yes. I also at the time worked with a friend,  
16 Austin. His family and other friends have had  
17 property in the Southern Tier going down  
18 towards Gowanda, Gerry. I am not sure how to  
19 say that town correctly. So I would travel,  
20 again liking to experience New York. It is a  
21 beautiful outdoor state. It is gorgeous and  
22 traveling when I would go hiking, when I would  
23 go to Upstate New York to my family, Vicky and  
24 John Maloney. They have passed away. Their  
25 daughter, Melissa, has inherited the property.

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1           It has to be between 200 and 400 acres  
2           they have up there of just pristine woodlands.  
3           It is not developed, not anything. I would go  
4           up there, go hiking. Up there I have  
5           encountered coyotes, wild turkeys.

6           Going down towards Gowanda, Allegany,  
7           that Southern Tier Chautauqua area, I have  
8           encountered black bears. Granted, New York  
9           does not have grizzly bears, thankfully, and I  
10          have had encounters multiple times with wild  
11          life and, you know, it started to make me  
12          worry for my safety because I would be out, it  
13          would be remote.

14          Especially Upstate New York, not until  
15          very recently did they start having reliable  
16          cell service in those areas. So I would be  
17          out by myself and have encounters. Luckily, I  
18          was able to stay safe, but did not have a  
19          guarantee that that would always be the case.

20        Q. Aren't you on private land in Malone?

21        A. Yes. Up there --

22        Q. That's the only question. And when you went  
23          down to Chautauqua area, were you also on  
24          private land?

25        A. The Southern Tier was a mix.

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1 Q. Who owned the property in Malone again?

2 A. My friend Austin.

3 Q. No. No. In Malone.

4 A. In Malone it was my Aunt Vicky and Uncle John,  
5 last name Maloney.

6 Q. Oh, I am saying Malone, but Maloney is the  
7 last name?

8 A. They lived right around Moira. It all bleeds  
9 together up there.

10 Q. Okay. But either way, when you are up in St.  
11 Lawrence County, you are on private property  
12 and there's an heir. And what's her name?

13 A. Melissa.

14 Q. Melissa, okay.

15 The land that you are talking about in  
16 Upstate New York, St. Lawrence County is  
17 private property, right?

18 A. Correct.

19 Q. Okay. And Melissa, does she allow you to have  
20 weapons on that private property?

21 A. When her parents passed away, we no longer  
22 remained talking. I haven't been to that part  
23 of New York State, that specific part since.

24 Q. When did they pass away?

25 A. My Aunt Vicky passed away in 2017 and then my

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1           Uncle John passed away, I want to say  
2           approximately -- without looking at his  
3           obituary, maybe a year ago, if not a little  
4           sooner.

5           Q. But it doesn't sound like there's many future  
6           trips in the plans to Upstate New York to  
7           visit Melissa?

8           A. To that specific region, no. Because I have  
9           more transitioned to publicly accessible  
10          regions where if a property owner passes away,  
11          I suddenly wouldn't lose the right or the  
12          ability to access that area.

13          Q. Do you believe that the property owner should  
14          have the right to tell you not to access their  
15          property if you are carrying a weapon?

16                 MR. ROTSKO: Objection. Calls for  
17          speculation.

18          Q. You still have to answer.

19          A. Oh, okay. I didn't know. It would be up to  
20          the -- I believe it would be up to the  
21          property owner to tell me that they don't want  
22          to, not tell me that I am allowed to.

23          Q. But you believe that a private property owner  
24          can prevent you from carriage on their land?

25          A. Yes. If they were to ask me.

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1 Q. Okay. Do you think you should be able to  
2 enter their land and not disclose that you are  
3 concealing a weapon?

4 MR. ROTSKO: Objection to relevance.  
5 You can answer.

6 THE WITNESS: Can you repeat it, please?

7  
8 (The question was read.)  
9

10 THE WITNESS: Yes. Unless they ask me.  
11

12 BY MR. BELKA:

13 Q. Brett, is it your belief that you can come to  
14 my house and conceal a weapon on my property  
15 and not disclose that you are doing so?

16 A. Yes. Unless you ask me to leave, and then I  
17 should leave immediately.

18 MR. ROTSKO: Objection. Just for  
19 clarification, are we asking for philosophical  
20 beliefs here or are you asking whether he --  
21 are you asking him for a legal conclusion or  
22 his preference?

23 MR. BELKA: I am asking the least  
24 objectionable of those questions. I am not  
25 going to clarify. The record is going to be

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1           what it is.

2                   MR. ROTSKO:   Brett, if you need to ask  
3           for clarification, feel free to do so.

4                   MR. BELKA:   He nodded yes that he  
5           understands, right?

6                   THE WITNESS:   Yes.   I understand.

7                   MR. ROTSKO:   You understand that --

8                   MR. BELKA:   Nick, Nick, Nick, we are  
9           done there, okay?   You have already provided  
10          information to him.   If he wants to clarify a  
11          question, he can.   Nobody is preventing him  
12          from doing so, okay?   Nick, the record is going  
13          to be what it is.

14                   MR. ROTSKO:   Proceed.

15                   MR. BELKA:   Thanks.

16  
17                   BY MR. BELKA:

18           Q.   Your declaration explains that you submitted a  
19           request for time off for a planned trip to the  
20           Adirondacks.   Do you recall that?

21           A.   Yes.

22           Q.   We have gone over who your employer is, but  
23           remind me.

24           A.   Ray Laks Honda in Orchard Park.

25           Q.   Okay.   And what do you do there?

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1 A. My official job title is recon manager.

2 Q. You repo cars?

3 A. Recon.

4 Q. I understand. I don't know what that means.  
5 What does that mean?

6 A. So essentially outside of financing a car,  
7 office administrative work, selling a car or  
8 being a service writer, when you bring your  
9 car in for service, everything else of the  
10 business goes through me and I handle and  
11 oversee and keep everything on track: New  
12 cars coming in, new cars being sold going out,  
13 used cars coming in, stocking them in, getting  
14 them into the shop, what work do they need,  
15 sourcing parts, sending them out for repair.

16 If you bring your car as a customer in  
17 to get work done, I dispatch it to the  
18 technician. Overseeing the technicians in the  
19 shop, working with the parts department,  
20 coordinating customer delivers for sale staff.  
21 General keeping an eye on the place,  
22 protecting the business interest. Mr. Used  
23 Car Manager, this car -- because of the  
24 condition of it, yes, it technically meets the  
25 letter of the law for New York State

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1 inspection, but it would put yourself at  
2 future liability selling this as a retailable  
3 [sic] piece, look out for the business.

4 We just had three Accord -- speaking to  
5 a manager, we just had three Accord Sports get  
6 put on cinder blocks and all sets of wheels  
7 taken. It did massive amounts of damage to  
8 the cars and the theft of the property. We  
9 should probably start having the sale staff  
10 bring that model of car, which I owned, inside  
11 the shop so it is locked inside the building.  
12 Try to reduce the theft, make sure the lights  
13 are on, make sure the light timers.

14 We are going into what could be a  
15 snowstorm very soon in the next couple days.  
16 Do the two plow trucks have the plows  
17 attached, are they fueled up, are all the  
18 lights working so you can see, do the wipers  
19 work, they are mechanically good, all right?  
20 Make sure that they are detailed. You have to  
21 pull them in every night. Our shuttle, if you  
22 come in to get your car worked on at 8 o'clock  
23 in the morning and you need to be to work by  
24 8:05, the shuttle better be inside so it's  
25 defrosted ready to go.

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1                   So it's a massive amount of  
2                   coordination, management, overseeing. It's a  
3                   mix of everything. It keeps the business  
4                   profitable, sustainable and afloat and  
5                   productive and that is the short version.

6           Q. Understood. In your declaration you note that  
7           you submitted a request for time off for a  
8           couple of days in November 2022 and the idea  
9           of that was to visit the Adirondack Park,  
10          right?

11          A. That's correct.

12          Q. Okay. And who is your supervisor to whom you  
13          submitted this time-off request?

14          A. At the time we just in the last three weeks  
15          changed that personnel there. That would have  
16          been John Cahalan. His name is tough so --

17          Q. It's okay. I just want to be clear. I am  
18          asking you who -- so your declaration says I  
19          submitted a time-off request at my place of  
20          employment, okay? And I want to know to whom  
21          you submitted that time-off request?

22          A. Verbally to him and then put it in through --  
23          they use a program called Workday. He writes  
24          it -- well, when he was there, he wrote it  
25          also on his day planner. He would mark off on

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1 the calendar who is off so that way you didn't  
2 have multiple people in the same department  
3 off at the same time.

4 Q. Okay. And just for clarity of the record, you  
5 said "verbally to him." Who is the him to  
6 which you are referring?

7 A. John Cahalan.

8 Q. Okay. And your declaration says a couple of  
9 days in November 2022, right?

10 A. Correct.

11 Q. Okay. Now, you went through a very long  
12 detailed description of the kinds of work that  
13 you do for this job, right?

14 A. Correct.

15 Q. Okay. And presumably a time-off request is  
16 for a time specific?

17 A. Correct.

18 Q. Okay. Now, you don't provide a specific time  
19 in your declaration. You say a couple of days  
20 in November '22.

21 A. I had taken off -- Wednesday is my normal day  
22 off work through the week. Next week  
23 Wednesday I put in to have the 23rd off. We  
24 are closed for Thanksgiving, the 24th. I put  
25 in to have Thursday and Friday off work, which

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1 I have never done. So that way I could leave  
2 town on Wednesday, go through Thanksgiving Day  
3 into the weekend, return Sunday and then  
4 resume work.

5 Q. Why not put the specific dates in your  
6 declaration that you worked on for six to  
7 eight hours to make sure it was an accurate  
8 representation in this case?

9 MR. ROTSKO: Objection. Arguing with  
10 the witnesses.

11 Q. You still have to answer.

12 A. I am not a legal person. I am not a licensed  
13 lawyer with the bar. I didn't know -- I have  
14 never been down this path before.

15 Q. At the time you wrote the declaration, did you  
16 know the very specific days that you were  
17 requesting time off for?

18 A. Yes.

19 Q. Is it fair to say that you did not include  
20 those days in your declaration?

21 A. Yes. I omitted the exact dates.

22 Q. Your declaration says that you canceled your  
23 trip to the Adirondack Park because of the  
24 CCIA, right?

25 A. Correct.

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1 Q. And why do you feel -- strike that.

2 Why did you feel it necessary to cancel  
3 your trip to the Adirondack Park because of  
4 the CCIA?

5 A. To get to the Adirondacks it's approximately 5  
6 hours and 15 minutes of travel time, 6 hours  
7 and 15 minutes of travel time if you don't go  
8 the thruway. Sometimes the side roads are  
9 nice, slower pace, less traffic. So with the  
10 way the CCIA is, the way it is written in  
11 black and white which is what I believe to be  
12 the law, if I was to go on the trip, bring  
13 with me my pistol and I am carrying it because  
14 it is easier to keep it in a holster on your  
15 person, less likelihood of getting it stolen  
16 because you left it somewhere, I would have to  
17 know in advance every restaurant that I may  
18 decide to get food at or every gas station.  
19 And then if I ended up instead of bringing a  
20 sleeping bag and sleeping in the car as I  
21 sometimes do, if I went the route of this time  
22 I will get a hotel, knowing all the property  
23 owner's policies ahead to be compliant and  
24 legal, it -- too daunting, if you will.

25 Q. Your declaration to me implies that you

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1           thought that the CCIA applied to the  
2           Adirondack Park. Was that your understanding  
3           at the time you signed your declaration?

4           A. When I signed it at the time, that was my full  
5           belief. However, New York State political  
6           leaders have said now that it doesn't apply,  
7           but I don't see anything in writing. So I am  
8           unsure of New York State Government's stance  
9           in that regard.

10          Q. You understand it has been represented in this  
11          lawsuit that the CCIA does not apply to  
12          Adirondack Park, right?

13          A. That's what I have heard. However, when I go  
14          to the Penal Code and I look it up, I haven't  
15          seen the legislature make any changes, make  
16          any addendums, amendments, corrections in that  
17          regard. And I have to believe the law  
18          enforcement has no legal obligation to protect  
19          me.

20                 Their duty is to enforce the law and  
21          catch criminals per the Supreme Court case  
22          that happened out of Ohio. I want to say  
23          Akron. I don't remember the exact name. I  
24          would have to look it up, but because of that  
25          I would have to believe any law enforcement

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1 professional whether they are New York State  
2 Park rangers, DEC, if they are New York State  
3 Police, local sheriff, local town, they would  
4 go by this is what's written as the law, this  
5 is, therefore, what we must enforce if someone  
6 is violating it.

7 Q. So at least as it relates to the Adirondack  
8 Park, the statement of political leaders on  
9 how the CCIA applies is not enough for you?

10 A. Correct. Let me add --

11 Q. No.

12 A. Okay. Sorry.

13 Q. Actually, sorry. You should be able to add.  
14 Go ahead. I didn't mean to cut you off.

15 A. If I were to go ahead and go there and carry  
16 and a law enforcement professional were to  
17 observe me and stop me and question me and  
18 find that I was carrying, I don't believe that  
19 they would find it a sufficient defense or  
20 justification to say, well, the Governor or  
21 the Attorney General of New York or the head  
22 of the State Police has said this --

23 Q. Right.

24 A. -- you know, in a TV interview. Much like  
25 people I know now that are going through the

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1       permitting process, the way the law is written  
2       it says everybody needs the new training  
3       requirement and other requirements. To have,  
4       again, politicians who are elected  
5       representatives and heads of various  
6       departments say, well, we only interpret that  
7       or we only mean it applies to downstate  
8       counties like Suffolk, Nassau, Westchester and  
9       the boroughs and New York City, again, I look  
10      at it and I tell people they can say what they  
11      want but what's actually written in the law,  
12      that's the standard you are held to and this  
13      is what it says currently.

14      Q. Right. So in the case of Adirondack Park,  
15      right, you would not be comforted by the  
16      statements of political leaders or the leader  
17      of the State Police that Adirondack Park is  
18      not -- that we are not going to enforce the  
19      CCIA in Adirondack Park, right?

20      A. Correct.

21      Q. What kind of plans did you make to go to  
22      Adirondack Park in the period of time around  
23      Thanksgiving 2022? What firm plans did you  
24      make?

25      A. I had firm plans, definitive plans. My plans

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1           were to travel to the west central region  
2           which is northeast of like Rome, New York. I  
3           would go up. There's a trail there that I  
4           really do enjoy, Tillman. There's also one --  
5           there's a parking area for Blue Mountain off  
6           of Route 28 or 8. Without looking at a map, I  
7           do sometimes jumble those. You park there and  
8           I want to say it's Swallow or Smoky Mountain  
9           Trail, but Tillman is the primary one that I  
10          have enjoyed in that region.

11                 So I made plans. I would take my SUV or  
12          Sport Utility Vehicle, fold the seat down,  
13          throw a sleeping bag in the back. I can sleep  
14          in the car if need be, but if you leave at  
15          5:00 in the morning, drive the legal speed  
16          limit, go there, get gas, stop for fast food,  
17          you are there about 10:30, 11:00. The trail  
18          is a couple miles long; you enjoy it. Say you  
19          leave by 4:00 p.m., 5:00 p.m. before it starts  
20          to get absolutely pitch black, you are back  
21          before midnight. So I can make a day of it if  
22          I want to go there and back in one day.

23                 Having a couple days off I had gotten  
24          excited that, you know what, I have a great  
25          sleeping bag with a plaid design interior. I

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1           would stay warm. It's not that cold yet and  
2           just kind of camp out.

3           Q. So no hotel plans, right?

4           A. On this trip, no.

5           Q. Right. So you didn't have any particular  
6           place that you were for sure going to stay in  
7           the Adirondack trip that was going to happen  
8           in and around Thanksgiving this year?

9           A. Correct.

10          Q. Okay. And did you have a definitive arrival  
11          and departure date?

12          A. Wednesday the 23rd would have been the  
13          departure date being the first day off work  
14          staying through either Friday or Saturday and  
15          then returning. New York State weather  
16          dependent of course. I did get stuck once for  
17          an extra day once up near Lake Piseco in New  
18          York State.

19          Q. Okay. But getting to the departure date just  
20          because I know you were at Wednesday the 23rd,  
21          the coming back date of -- just help me out  
22          with the math.

23          A. Either Friday the 25th or Saturday the 26th  
24          and then that gives me a day to get ready to  
25          return to work.

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1 Q. Because you wouldn't work Sunday?

2 A. Sunday, correct.

3 Q. But either way you didn't make this trip  
4 despite political leaders and the  
5 representations that have been made in this  
6 case because that's not enough for you to be  
7 assured that the CCIA wouldn't be enforced in  
8 Adirondack Park?

9 A. Correct.

10 MR. BELKA: Okay. Let's take a break.  
11 Five minutes.

12  
13 (Recess was taken.)

14  
15 BY MR. BELKA:

16 Q. One of the paragraphs in your declaration  
17 mentions that you would sometimes walk in  
18 local parks. Do you recall that statement?

19 A. Yes.

20 Q. I mean, I will read it to you. "Carry my  
21 firearm for self-defense while walking in  
22 local parks or when hiking on trails in  
23 largely wooded and marshy areas a few times  
24 each month." Do you recall that?

25 A. Yes.

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1 Q. Okay. Similar to failing to provide the dates  
2 on which you would have made your trip to the  
3 Adirondacks, you don't mention which local  
4 parks you would carry for in self-defense. Is  
5 that fair?

6 A. Yes.

7 Q. Okay. Can you tell me what local parks you  
8 are referring to in your declaration?

9 A. Yes. The primary ones, but not all of them,  
10 are Stiglmeier Park in Cheektowaga because of  
11 being close to where I live, parts of the  
12 Clarence Bike Path which are actually two  
13 trails running from Amherst off of Transit  
14 Road into Clarence. If you remember the bike  
15 path rapist, that's where that stuff happened.  
16 The other one would be there's a Shoreline  
17 Trail running from the north side of Buffalo  
18 where Sheridan Drive approximately hits the  
19 190 and it runs up through where -- or sorry,  
20 where Sheridan Drive hits the 290, sorry. And  
21 that runs from there up to -- or I am getting  
22 my roads confused. I am sorry.

23 The 190 goes around Buffalo. Where  
24 Sheridan Drive hits the 190 and it runs from  
25 there down to where the bridges going to Grand

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1 Island are and there's a park and ride  
2 directly underneath the bridges. You go past  
3 the old power plant in that section. It's  
4 called the Shoreline Trail, I believe.

5 Q. What was the middle one that you mentioned?  
6 Parts of a trail path into Clarence, what's  
7 that one called?

8 A. There's two trails. They are both -- in  
9 laymen's term people in the area just call  
10 them the Clarence Bike Path, but they are two  
11 bike and hiking paved trails that run through  
12 the woods of that area.

13 Q. All right. I asked you to tell me what you  
14 meant by local parks in your declaration and  
15 you have identified Stiglmeier Park, the  
16 Clarence Bike Path, and the Shoreline Trail;  
17 is that correct?

18 A. Yes.

19 Q. All right. And understood that you qualified  
20 that to say primarily, were there any other  
21 local parks in your mind at the time you  
22 drafted your declaration, aside from  
23 Stiglmeier Park, the Clarence Bike Path and  
24 the Shoreline Trail?

25 A. There are other parks I have been to. Those

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1           being the primary most enjoyed. When I have  
2           gone to other parks, I have not kept a running  
3           list because I did not know I would need it in  
4           the future. So I cannot be certain of the  
5           exact name or like the date and time without  
6           speculating.

7           Q. I mean, do you know the date and time on which  
8           you have been to Stiglmeier Park?

9           A. Stiglmeier Park, the last time I went was the  
10          last Wednesday in August.

11          Q. And what about before the last Wednesday in  
12          August, when was the last time you were at  
13          Stiglmeier Park?

14          A. That would have been I went Sunday morning,  
15          the first Sunday in August.

16          Q. And before that, when was the last time you  
17          were at Stiglmeier Park?

18          A. Before that, would have been the end of July.

19          Q. And is the end of July a specific date or  
20          time?

21          A. I would have to go back through my calendar.

22          Q. Right. My point is, I just want to know what  
23          you mean by local parks in your declaration.  
24          And you have identified Stiglmeier Park, you  
25          have identified the Clarence Bike Path and the

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1 Shoreline Trail primarily. And then you note  
2 other parks, but that you haven't -- you might  
3 not know their names?

4 A. Correct.

5 Q. Okay. But the reasoning you have for not  
6 providing their names is that you didn't know  
7 that you would be able to -- one second. Be  
8 required to come up with a date and time. I  
9 am just saying that that's consistent for the  
10 other parks as well?

11 A. Correct.

12 Q. Okay. So is it fair to read the words "local  
13 parks" in your declaration in paragraph 7 as  
14 Stiglmeier Park, the Clarence Bike Path, and  
15 the Shoreline Trail?

16 A. Yes.

17 Q. You also note that there were hiking trails  
18 and largely wooded and marshy areas a few  
19 times each month?

20 A. Yes.

21 Q. Okay. The hiking trails that you are  
22 referring to, are they different than  
23 Stiglmeier Park, the Clarence Bike Path, and  
24 the Shoreline Trail?

25 A. Those previously mentioned trails are some of

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1           it, but there are some outside of Erie County  
2           in the Southern Tier.

3           Q. Okay. Aside from the ones that we have  
4           already mentioned -- I am just trying to get  
5           the world of local parks and hiking trails.  
6           Aside from the three that we have mentioned,  
7           what else are you referring to?

8           A. There's one other primary one. That would be  
9           the Harris Hill State Forest area down near  
10          Gerry, New York.

11          Q. How do you spell Gerry?

12          A. G, as in George, E-R-R-Y. That's towards like  
13          Chautauqua way.

14          Q. And when is the last time you were at the  
15          hiking trails in Harris Hill?

16          A. Would have been the beginning of June around  
17          Father's Day weekend.

18          Q. And what gun were you carrying?

19          A. That would have been my Ruger SP101 and 357  
20          Magnum.

21          Q. Both guns?

22          A. That's all one gun.

23                 MR. BELKA: Oh, I deserve that. Can you  
24          read me back again what the gun was?

25

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1 (The answer was read.)

2

3 BY MR. BELKA:

4 Q. Where did you carry it on your person when you  
5 were on the hiking trails at Harris Hill in  
6 the beginning of June around Father's Day of  
7 this year?

8 A. That was an inside-the-waistband holster  
9 concealed.

10 Q. The inside-the-waistband holster that you use  
11 for your 357 Ruger, do you know the brand of  
12 it?

13 A. I do not.

14 Q. Do you know what color it is?

15 A. It is light brown. It is a little bit lighter  
16 than a baseball glove.

17 Q. How do you -- how does it attach to the  
18 waistband?

19 A. It has a belt clip. The holster part, the  
20 leather part goes inside the waistband.  
21 There's a metal clip that goes on the outside  
22 so it -- if I can try to describe it, like  
23 this (indicating). And then you would put  
24 your shirt, your garment over that.

25 Q. Are you concerned at all about printing?

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1 A. I am.

2 Q. And what do you do to prevent printing?

3 A. Pick a gun that is suitable for the event or  
4 activity that I am doing for proper retention  
5 as well as the size of it and where it is  
6 located on my body and then also the type of  
7 holster. Concealed means concealed.

8 Q. How many holsters do you own?

9 A. Approximately, between six or seven.

10 Q. Is it fair to say that in your declaration  
11 when you refer to local parks or hiking on  
12 trails in largely wooded areas and marshy  
13 areas, you are referring to Stiglmeier Park,  
14 the Clarence Bike Path, Shoreline Trail and  
15 Harris Hill State Forest in Gerry, New York?

16 A. Primarily, yes.

17 Q. Okay. Is there anything else that you are  
18 referring to that you can articulate for me  
19 here today?

20 A. Not at this time.

21 Q. Do you think that there's some other time that  
22 you might be able to articulate to me what you  
23 mean by local parks or when hiking on trails?

24 A. I would have to go through a map. I am a very  
25 well-traveled individual. I have not been to

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1 every park and public land and location in New  
2 York State, but I have been to I would say  
3 probably without going into speculation,  
4 80 percent of them and I would have to --  
5 these are the primary ones that I go to  
6 frequently. The other are a far more  
7 infrequent amount of time between when I go.  
8 Sorry. Trying to put it together.

9 MR. ROTSKO: Object on the grounds that  
10 the question calls for speculation as well as  
11 it is irrelevant given that he has identified  
12 examples of parks.

13 MR. BELKA: I disagree. And he's  
14 clarifying terms in his declaration and what  
15 they mean since local parks is meaningless, but  
16 that's argument and let's do that later.

17  
18 BY MR. BELKA:

19 Q. Is it fair to say that when you wrote local  
20 parks or hiking trails, primarily you were  
21 referring to Stiglmeier Park, the Clarence  
22 Bike Path, Shoreline Trail, and Harris Hill  
23 State Forest in Gerry, New York?

24 A. Primarily, yes.

25 Q. Within your trip to the Adirondacks and

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1 elsewhere in your declaration, you  
2 mentioned -- well, strike that.

3 Regarding your testimony today related  
4 to the planned trip to the Adirondacks and in  
5 your declaration elsewhere, you refer to not  
6 being able to carry on private property that  
7 is open to the public and that prevents you  
8 from failing to visit gas stations or hardware  
9 stores. Do you remember that testimony?

10 A. Yes.

11 Q. Okay. And as it relates to the Adirondack  
12 Park, I will just note that the travel to the  
13 Adirondack Park is not identified as a barrier  
14 in your declaration.

15 A. Clarification, please. I am not  
16 understanding.

17 Q. Okay. Don't even worry about it, okay? We  
18 will just move on from a point I was making,  
19 but isn't really for a deposition anyway,  
20 okay? Well, no. Let's clarify because you  
21 asked me to.

22 Okay. In the section where you talk  
23 about the time off for the Adirondack Park,  
24 your declaration says that the CCIA is  
25 preventing you from entering the Adirondack

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1 Park, but not that the CCIA is preventing you  
2 from traveling to the Adirondack Park. Do you  
3 understand that?

4 A. Yes.

5 Q. Okay. However, elsewhere in your declaration  
6 you do say that travel for you has been  
7 inhibited by the CCIA, right?

8 A. Yes.

9 Q. Okay. And do you remember those sections of  
10 your declaration?

11 A. Yes.

12 Q. Okay. You say you can't go to the gas station  
13 or hardware stores because the CCIA prevents  
14 it?

15 A. Yes.

16 Q. Okay. Before we get into how the CCIA  
17 prevents those things allegedly, what gas  
18 stations are you visiting weekly -- strike  
19 that.

20 What gas stations are you referring to  
21 when you wrote your declaration?

22 A. Locally that would be Delta Sonic as I have a  
23 Delta Sonic gas card. When traveling outside  
24 of Buffalo and the suburbs, to use laymen's  
25 terms, it simply would be whatever is

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1           available when you need gas. I am not as  
2           picky as long as it's name brand.

3           Q. Okay. You also refer to monthly visits to  
4           hardware stores.

5           A. Yes.

6           Q. What hardware stores are you referring to in  
7           your declaration?

8           A. Primarily, Valu hardware stores.

9           Q. And that's Valu with no E?

10          A. Yes.

11          Q. It's mostly for her (indicating).

12                   What Valu hardware store? Like where is  
13           it located?

14          A. There is one within minutes of where I live.  
15           It's off of George Urban Boulevard and Dick  
16           Road in a plaza across from Wegmans.

17          Q. Primarily is that the hardware store you are  
18           referring to in your declaration?

19          A. Yes.

20          Q. Okay. And it is your position that that Valu  
21           on George Urban and Dick Road does not have  
22           conspicuous signage that allows you to  
23           concealed carry on their property, right?

24          A. Yes.

25          Q. Have you inquired as to whether or not that

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1 Valu hardware store allows you to concealed  
2 carry?

3 A. I have asked the cashier. They did not want  
4 to give an answer because of reasons that I do  
5 not know.

6 Q. Is it because the cashier is the wrong person  
7 to ask? I am legitimately asking that  
8 question.

9 A. When I have been there, I have seen manager --  
10 I have seen everybody working the cashier and  
11 I don't know what everybody's job title is.

12 Q. Okay. Other than asking the cashier, have you  
13 made any other efforts to inquire as to the  
14 policy at Valu as it relates to concealed  
15 carry?

16 A. I tried calling their corporate number to find  
17 out, and the person I spoke to did not want to  
18 give an answer. They said they simply defer  
19 to New York State and local law enforcement.

20 Q. By not having conspicuous signage according to  
21 the law, isn't Valu giving you an answer as to  
22 their position on concealed carry?

23 A. Yes.

24 Q. And what is that answer as you understand it?

25 A. That it is not allowed.

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1 Q. Okay. And do you believe that as a property  
2 owner, Valu can tell you not to conceal carry  
3 on their property?

4 A. Yes. If they communicate it to me directly,  
5 personally.

6 Q. But not through signage?

7 A. If they were to post a sign saying  
8 specifically that's not allowed, but to have  
9 nothing posted at all is vague. And again if  
10 a police officer were to come, what exactly is  
11 in writing posted that would justify what I am  
12 or am not doing.

13 Q. Valu can allow you to concealed carry on their  
14 property by posting conspicuous signage,  
15 correct?

16 A. They could, correct.

17 Q. They have not done that, correct?

18 A. Correct.

19 Q. And in New York that means that you are not  
20 allowed to concealed carry on Valu's property,  
21 right?

22 A. Correct.

23 Q. And having spoken to the cashier and called  
24 the corporate number, you have no indications  
25 otherwise that they want you to concealed

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1 carry on their property, correct?

2 A. Correct.

3 Q. And you think that the only way they should  
4 disallow you from concealed carry on their  
5 property is if they say it to you directly?

6 MR. ROTSKO: Objection.

7 Q. You still have to answer.

8 A. Not in the sense of saying it verbally, but it  
9 should be explicitly posted and written much  
10 like a no trespassing sign or no parking sign  
11 or in Buffalo the various you can park from  
12 this time to this time but not this time where  
13 it's very black and white, so that way the  
14 common man would understand and it would make  
15 sense.

16 Q. But you understand. You know what it means  
17 when Valu fails to post conspicuous signage  
18 permitting you to concealed carry. You know  
19 that means you are prohibited, right?

20 A. Correct.

21 Q. Another paragraph in your declaration is about  
22 the difficulties of travel and trying to find  
23 the conspicuous signage. Do you recall that  
24 paragraph?

25 A. Yes.

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1 Q. Okay. And I am going to characterize, but the  
2 idea of the paragraph is the conspicuous  
3 signage might be hard to find, you are on the  
4 property and that makes it uncomfortable for  
5 you, right?

6 A. Yes.

7 Q. Okay. If the situation were reversed, as you  
8 request, and conspicuous signage needing to be  
9 posted preventing you from concealed carrying  
10 on the property, wouldn't you run into the  
11 exact same issue?

12 MR. ROTSKO: Objection. Calls for  
13 speculation.

14 Q. You still have to answer.

15 A. If it was done in a way that the signage was  
16 uniform, the requirements, a certain size,  
17 certain font, certain words being used so it  
18 was the same wherever you went. And in ways  
19 like other states like Texas does where it has  
20 to be posted at the entrance to the building,  
21 not the entrance to the property. So if, for  
22 example, I was to go to a supermarket to go  
23 grocery shopping and I pull in the parking lot  
24 and I go to walk up to the entrance and I see  
25 they have a signage, I can turn around and go

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1 back to my car and safely store, however the  
2 law is written, my firearm.

3 Q. What mechanism do you have in your 2023 Honda  
4 HR-V to safely store your firearm?

5 A. I have had since before I got my permit, I  
6 bought it in advance -- well, I got my permit.  
7 Before I took possession of my first firearm,  
8 my first pistol, let me clarify, I bought a  
9 safe that has a braided cable that attaches to  
10 the inside of the safe. The cable in cars I  
11 wrap around the seat frame that is bolted to  
12 the passenger seat of the car. And thus, when  
13 you put the pistol inside unloaded, magazine  
14 ejected and you lock it, it goes under the  
15 seat of the passenger seat so it's out of  
16 sight even to prevent theft.

17 With my HR-V I was not able to do that  
18 with the seat design so the cable runs  
19 through -- in the cargo area by the rear  
20 tailgate there's a metal hook that you would  
21 attach like a cargo net to or tie cargo down.  
22 The metal hook is welded to the body of the  
23 vehicle. I run the cable through that, secure  
24 the firearm in that. So in order to store my  
25 firearm, I would make it safe, put it in there

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1 and lock it and then throw a blanket over it.  
2 Again, prying eyes. I don't want to have  
3 theft. I take it very serious.

4 Q. And where is it located in your -- this  
5 storage unit, where is it located in your  
6 Honda HR-V?

7 A. In my HR-V it is in the cargo area behind the  
8 rear seat. You open the tailgate to access  
9 that area.

10 Q. Oh, because the Honda HR-V is kind of like a  
11 pickup truck?

12 A. That's an SUV. It is smaller than an Equinox,  
13 a CR-V.

14 Q. Oh, so when you say lift up the tailgate, you  
15 mean like the very back portion?

16 A. The back cargo hatch, like the rear hatch of a  
17 Station Wagon.

18 Q. You note in your declaration that people might  
19 be uncomfortable if they see you disabling  
20 your firearm in your car.

21 A. Yes.

22 Q. Do you remember that?

23 A. Yes.

24 Q. On what do you base that other people might be  
25 concerned with your disabling of the firearm

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1 by the tailgate of your HR-V?

2 A. I base it upon the action I would have to go  
3 through to comply, which is pull over on the  
4 side of the road before entering the property,  
5 get out of the driver's door, walk to the  
6 back, put the tailgate up. Then I would have  
7 to first draw the pistol from a holster, I  
8 would have to eject the magazine while the gun  
9 is pointed in a safe direction, which in that  
10 case would be straight at the ground. I would  
11 have to eject a live round, then store the  
12 firearm and lock it up. In doing that,  
13 looking at New York State Law, one thing that  
14 worries me is New York State Law seems to have  
15 provisions for publicly displaying or having  
16 out in public a firearm while hunting. A  
17 firearm meaning all guns.

18 The other thing they seem to have is if  
19 you are at the gun range or a gun club, some  
20 sort of sport target shooting of some type,  
21 everything else seems that a police officer  
22 can interpret it as brandishing because you  
23 are displaying it in public. The other thing  
24 to look at for the common person in New York,  
25 all the time you see in the police blotter

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1 throughout the state people calling the cops  
2 on other people because they think so-and-so  
3 had a gun, but it was an umbrella. They think  
4 so-and-so had a gun, but it was a cellphone.  
5 People in New York, as opposed to what I found  
6 in my travels in other states, they tend to be  
7 more skittish, more scared of guns.

8 So based upon that in my experience, I  
9 would worry that either a police officer  
10 driving by and here is a person on the side of  
11 a public road that has a handgun in their  
12 hands and there's a live round coming out or a  
13 mother with her two kids driving down the road  
14 might feel scared by that because it's being  
15 displayed in public. I have always felt  
16 concealed means it's concealed. It is not  
17 openly waved about, if you will.

18 Q. Isn't it the same if the private property  
19 prevents you from carrying on their property?  
20 You still have to go and store your firearm,  
21 right?

22 A. Yes.

23 Q. So if they prevent you by conspicuous signage  
24 or they prevent you because the law says that  
25 there is no conspicuous signage and that

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1 prevents you, the process of disabling your  
2 firearm is going to be the same?

3 A. Correct.

4 Q. Have you ever seen other people at the  
5 tailgate of their car not disabling a firearm?

6 A. Most people that I have talked to either say  
7 they intend to ignore the law, which is not  
8 how we have a law-abiding society.

9 Q. I am going to cut you off just because it's  
10 not an answer to the question, okay?

11 A. Okay.

12 Q. The question is: Have you ever seen other  
13 people at the rear of their car with a  
14 tailgate doing anything other than disarming a  
15 weapon?

16 A. No, I have not.

17 Q. You have never seen somebody load groceries in  
18 the back of a car?

19 A. Oh, I thought you meant have I -- I have seen  
20 people at the back of a vehicle loading cargo,  
21 yes.

22 Q. Right. Okay. Like 99 percent of the time  
23 somebody is at the back of their car, they are  
24 doing something other than disarming their  
25 weapon, right?

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1 A. Yes.

2 Q. So sitting at the back of your car, okay,  
3 doing something in the back of your car is not  
4 necessarily suspicious in and of itself,  
5 right?

6 A. Not always, no.

7 Q. How long does it take you to disarm and store  
8 your firearm?

9 A. If I had to estimate an approximation of time  
10 because I have never timed it, it would be  
11 somewhere between 30 to 40 seconds.

12 MR. BELKA: Okay. We are going to take  
13 a break to deal with an annoying sound. One  
14 second. Off the record.

15

16 (Recess was taken.)

17 (The question and answer were read.)

18

19 BY MR. BELKA:

20 Q. One of the other areas that your declaration  
21 addresses is when traveling the private  
22 property provisions of the CCIA prevent you  
23 from taking bathroom breaks. Do you recall  
24 that?

25 A. Yes.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Okay. Can you describe what you mean by that?

2 A. If I was traveling and I needed to either  
3 while driving or hiking stop and use a  
4 bathroom and whether it's a fast food  
5 restaurant, a coffee shop, private business,  
6 what have you, and I need to use the  
7 facilities, I am carrying a firearm, I can't  
8 go to their property now because they don't  
9 have it posted and I -- or I don't know ahead  
10 of time if they have it posted because trying  
11 to find out who owns the property and who is  
12 the legal mouthpiece to make such decisions is  
13 sometimes very hard to track down.

14 Q. Have you ever tried to track it down by  
15 calling ahead?

16 A. I have with some, but it gets so difficult and  
17 either people don't want to comment; they  
18 don't want to make a decision. They say about  
19 liability, that they are defaulting to what  
20 New York State says. So it's neither a yes or  
21 no.

22 Q. Is that a direct quote from somebody that you  
23 spoke to that they are defaulting to what New  
24 York State said?

25 A. Yes.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Who told you that?

2 A. It was an employee at a Tim Hortons around the  
3 corner from me. It is Wehrle Drive and it's  
4 either Dick Road or Cayuga Road. M&T Bank has  
5 a facility right across the street from them.  
6 There's an OTB gambling spot directly behind  
7 that was robbed about a year ago in a brazen  
8 robbery.

9 Q. Were you trying to take a bathroom break at  
10 this Tim Hortons near your house?

11 A. I was on my way home. Lunch had started to  
12 rapidly disagree with me, not trying to get  
13 gross, and I was unsure that I was going to  
14 make it home.

15 Q. And did you talk to that Tim Hortons employee  
16 by phone or in person?

17 A. I called them.

18 Q. And what can you recall about what you said to  
19 them and what they said to you?

20 A. I simply asked per New York State Law do you  
21 have any signage allowing the lawful  
22 possession of firearms to be carried on your  
23 property to know that if I would be legal to  
24 do so, and they responded with they are not  
25 really going to make a decision on that. They

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1 simply default to what New York State says and  
2 then they hung up on me.

3 Q. What level of person were you talking to at  
4 Tim Hortons, like a baker or cashier? Who  
5 were you talking to?

6 A. That I do not know. They did not identify  
7 their position in the company.

8 Q. Right. But you called the franchise location  
9 you were trying to use the bathroom at?

10 A. Correct.

11 Q. Right. And if that Tim Hortons had decided  
12 not to allow concealed carry through  
13 conspicuous signage, you would be in the same  
14 spot, right?

15 A. Approximately, yes. But I would not have  
16 ended up having an accident in my vehicle. I  
17 would have seen a sign and just kept going.

18 Q. Look, I am not sure I want to clarify this,  
19 but when you say "accident," are you talking  
20 about a car accident, are you talking about an  
21 accident related to going to the bathroom?

22 A. A urination accident.

23 Q. Okay. Do you have some sort of a medical  
24 condition that exacerbated or otherwise may  
25 have caused that urination accident?

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—BRETT CHRISTIAN - 11/16/2022—

1 A. I drink a lot of coffee.

2 Q. Right. So not a medical condition?

3 A. No medical condition.

4 Q. Right. Can you think of any other times in  
5 which you have called ahead to inquire about  
6 the policy, the carriage policy at a location  
7 that you were attempting to go to?

8 A. I have called ahead to both Tops and Wegmans  
9 grocery stores. I have called Cabela's on  
10 Walden and also, I have called ahead to  
11 Danny's on Genesee near the airport and Otto's  
12 off of Union near Genesee. They are  
13 restaurants.

14 Q. Did you say Denny's like D-E-N-N-Y-S?

15 A. D-A-N-N-Y-S, Danny's.

16 Q. Okay. And the last one was Otto's?

17 A. Otto's.

18 Q. And how do you spell Otto's?

19 A. O-T-T-O-S.

20 Q. Okay. And in your conversation calling ahead  
21 to the Tops grocery store in order to  
22 determine their policy on carriage, what did  
23 you say to them and what did they say to you?

24 A. Calling both to Tops and Wegmans, I inquired  
25 towards the first week of September when

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1 changes took effect if they permitted the  
2 lawful, for licensed permit holders, carrying  
3 of concealed firearms on their property. With  
4 both of those again I don't know the ranking  
5 level, that would be the word I would select,  
6 of the employee. They both said that they  
7 were declining to comment at this time. I  
8 would have to talk to a corporate location and  
9 track down somebody in corporate. Not a  
10 specified person, but someone in corporate.

11 Q. And did you do that?

12 A. I tried, got bounced around, could not get  
13 definitive answers. Answers in the sense  
14 either explicit, on-the-record verbal  
15 permission or explicit, on-the-record written  
16 permission.

17 Q. Did you ever go to those locations and see  
18 whether or not there was conspicuous signage?

19 A. I have.

20 Q. Okay. And if you went to those locations, did  
21 you see conspicuous signage?

22 A. At Tops and Wegmans, the stores that I have  
23 been to do not have anything posted saying  
24 that it is allowed.

25 Q. And so pursuant to New York State Law, what

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1 did that communicate to you?

2 A. That communicated to me that it would be a  
3 violation of law to bring onto the property a  
4 firearm.

5 Q. Right. So at the time you saw no conspicuous  
6 signage on Tops and Wegmans, you knew that you  
7 were not allowed to concealed carry on their  
8 properties?

9 A. Yes. Once I went on the property. I decided  
10 to, when I made my next shopping trip, to not  
11 carry at all, leave it at home because I did  
12 not know what was going to happen and pulling  
13 a firearm out in public to me is unsafe if you  
14 are doing it at all. So I went without and  
15 that's when I see that there's nothing posted.

16 Q. All right. And your calling ahead to Cabela's  
17 on Walden to determine their policy on  
18 carriage, what did you say to them and what  
19 did they say to you?

20 A. I asked them if they permit lawful permit  
21 holders to carry concealed on their person on  
22 their property. Cabela's said as long as you  
23 follow New York State Law, not threatening  
24 people, not waving it about, not trying to  
25 commit a crime, that they do have signage

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1 posted at their front door, but not the  
2 entrance to the property that does allow it.

3 Q. Through a phone call were you able to  
4 determine that concealed carry on the Cabela's  
5 property was allowed?

6 A. Through a verbal phone call I was able to see  
7 and then when I actually went to the property,  
8 I had seen on the doors, the entrance to the  
9 building that they do have it posted now.

10 Q. Right. But my point is, is that through a  
11 phone call to Cabela's on Walden you were able  
12 to determine your rights as to carriage on  
13 their private property?

14 A. I was able to determine, but not confirm  
15 because on a phone call I have no guarantee  
16 that the person I am speaking to is who they  
17 say they are and if I were to take their word  
18 and then arrive and then law enforcement,  
19 something happens and they are there, it would  
20 be he said, she said. Where's my proof?  
21 Where's my proof in writing?

22 Q. Right. And just falling back on prior  
23 testimony, no state police person -- you have  
24 not been arrested for violations of the CCIA,  
25 right?

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1 A. As of this date, I have not.

2 Q. Right. And nobody has approached you to  
3 enforce the CCIA, correct?

4 A. Not yet. I don't know the future.

5 Q. Right. You mentioned that you called Tops and  
6 Wegmans to determine their carriage policy in  
7 the first week of September, correct?

8 A. Correct.

9 Q. And you signed your declaration on the 26th of  
10 September, correct?

11 A. Correct.

12 Q. And you could have included that information  
13 in your declaration, but did not, correct?

14 A. I did not because, again, not being a legal  
15 person I did not know.

16 Q. So the next question is, why --

17 MR. ROTSKO: Objection to the extent it  
18 calls for attorney-client privileged  
19 communications as well as work product which is  
20 protected and I direct Mr. Christian not to  
21 answer with any of that information.

22 MR. BELKA: I just want to be clear  
23 about what question he's not answering. I am  
24 asking him why he did not include his calls to  
25 Wegmans and Tops to determine their carriage

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1 policy that he made on September 1st, the first  
2 week of September, why he did not include that  
3 in his declaration that is dated September  
4 26th. And you are directing him not to answer  
5 that question?

6 MR. ROTSKO: Yes.

7 MR. BELKA: And the reason he is being  
8 directed not to answer that question is why?

9 MR. ROTSKO: The attorney-client  
10 communication privilege and the work product  
11 protection doctrine.

12

13 BY MR. BELKA:

14 Q. Did you call Cabela's on Walden at around the  
15 same time that you called Tops and Wegmans?

16 A. Yes.

17 Q. And Cabela's confirmed their carriage policy  
18 on the phone with you, correct?

19 A. Yes.

20 Q. Why did you not include your phone call to  
21 Cabela's which took place approximately the  
22 week of September 1st in the declaration that  
23 you signed on September 26th?

24 MR. ROTSKO: Objection on the grounds of  
25 attorney-client privileged information and work

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1 product protection doctrine. Directing  
2 Mr. Christian not to answer that question.

3 Q. You also mentioned that you contacted Danny's  
4 and Otto's, correct?

5 A. Correct.

6 Q. And did you do that at around the same time  
7 that you contacted Tops, Wegmans, and  
8 Cabela's?

9 A. Correct.

10 Q. Right. And that timeframe is the first week  
11 of September?

12 A. Correct.

13 Q. Okay. What did Otto's say regarding their  
14 carriage policy?

15 A. Both restaurants said that they declined to  
16 answer as they had not been able to make a  
17 decision as the recently implemented law, they  
18 were unsure of either liability to their  
19 business or if they decided to allow it, what  
20 met the requirements for posting signage on  
21 the property.

22 Q. Both Otto's and Danny's said the exact same  
23 thing, that they had not yet made a decision;  
24 it was a recently implemented law and they  
25 weren't sure what signage to post?

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1 A. Both of them said that. Not the exact words  
2 verbatim because I did not write it down, but  
3 that was the gist. That was the scope of  
4 their messages.

5 Q. Did you ever go to Otto's and Danny's to  
6 determine whether or not they had conspicuous  
7 signage posted?

8 A. I went the following weekend, the one after  
9 Labor Day, and neither one had anything posted  
10 at that time.

11 Q. By Otto's and Danny's failing to post  
12 conspicuous signage, did you understand that  
13 you were not allowed to carry on their  
14 property?

15 A. I would have to speculate that it's not  
16 allowed because they are not expressively  
17 saying it is.

18 Q. All of that, the phone call to Otto's and  
19 Danny's and Tops and Wegmans determining and  
20 going to those locations to determine the  
21 conspicuous signage, all of that happened  
22 prior to you signing the declaration on  
23 September 26th, 2022?

24 A. Yes.

25 Q. Okay. And none of that is included in your

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1 declaration, correct?

2 A. Yes.

3 Q. Why did you not include the information as it  
4 relates to Tops, Wegmans, Cabela's, Danny's  
5 and Otto's in your declaration?

6 MR. ROTSKO: Objection on the grounds of  
7 attorney-client privileged communications and  
8 work product protection doctrine. Directing  
9 Mr. Christian not to answer that specific  
10 question.

11  
12 The following were marked for identification:  
13 Exhibit 2 - Declaration

14  
15 BY MR. BELKA:

16 Q. Mr. Christian, I am handing you what has been  
17 marked as Exhibit 2. Do you see it?

18 A. I do.

19 Q. If you would leaf through it to the back, it's  
20 a four-page document. What is this?

21 A. This is the last page of it with my signature.

22 Q. Right. But Exhibit 2 is what?

23 A. Clarification, please.

24 Q. Okay. I am going to represent to you that  
25 Exhibit 2 is the declaration that you have

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1 submitted in this case and which we have been  
2 talking about today.

3 A. Yes.

4 Q. Okay. And you understand that the declaration  
5 I was referring to, a copy of it is Exhibit 2?

6 A. Yes.

7 Q. Okay. Do you know who John Boron is?

8 A. I do not know him personally, no.

9 Q. Okay. So go to the front first page of  
10 Exhibit 2. You can see that John Boron's name  
11 is in what we call the caption. Do you see  
12 that?

13 A. Yes, I do.

14 Q. Okay. And do you know why Mr. Boron withdrew  
15 as a plaintiff in this case?

16 A. I do not.

17 Q. Has anyone ever communicated to you anything  
18 related to the withdrawal of Mr. Boron as a  
19 plaintiff in this case?

20 A. No.

21 MR. ROTSKO: Objection to the extent  
22 that it calls for attorney-client  
23 communications.

24

25 BY MR. BELKA:

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1 Q. If you will go to page 4 of Exhibit 2. Is  
2 that your signature?

3 A. Yes.

4 Q. Okay. And you will also note that it states  
5 that it was executed on this 26th day of  
6 September 2022. Do you see that?

7 A. Yes.

8 Q. Is that the date on which you signed the  
9 document that is in front of you as Exhibit 2?

10 A. Yes.

11 MR. BELKA: Can you read that back?

12

13 (The question and answer were read.)

14

15 The following were marked for identification:

16 Exhibit 3 - New York State concealed carry  
17 license application

18 BY MR. BELKA:

19 Q. Mr. Christian, I am handing you a document  
20 labeled as Exhibit 3 to your deposition. Do  
21 you see it?

22 A. Yes, I do.

23 Q. What is it?

24 A. That is State of New York Pistol/Revolver  
25 License Application.

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1 Q. Okay. Is this what we have been referring to  
2 colloquially as your concealed carry  
3 application for licensure?

4 A. Yes.

5 Q. Okay. And if you go to page 2, sort of in the  
6 middle, on what date did you sign this?

7 A. The 30th day of January 2020.

8 Q. And is it fair to say that you applied for a  
9 concealed carry license in the State of New  
10 York on or about January 30th, 2020?

11 A. Yes.

12 Q. And that's reflected in Exhibit 3?

13 A. Yes.

14

15 The following were marked for identification:  
16 Exhibit 4 - List of firearms

17

18 BY MR. BELKA:

19 Q. Mr. Christian, I am handing you an exhibit  
20 marked exhibit -- strike that.

21 Mr. Christian, I am handing you a  
22 document marked Exhibit 4 to your deposition.  
23 Do you see it?

24 A. Yes, I do.

25 Q. Okay. Can you tell me what it is?

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1 A. It appears to be from some point in time.

2 It's not dated, but a list of -- or, yeah, I  
3 guess a list would be the best word. A list  
4 of the pistols or revolvers on my permit at  
5 that time.

6 Q. I just counted. It reflects ten pistols or  
7 revolvers. Do you see that?

8 A. Yes.

9 Q. And you recognize that these are a  
10 representation of your pistols or revolvers  
11 that were on your permit at some period of  
12 time, correct?

13 A. Yes.

14 Q. Okay. Is this a relatively recent  
15 documentation of the handguns that you have on  
16 your permit?

17 A. Clarification. When you say "recent", what  
18 timeframe?

19 Q. Sure. I mean, does this in large part  
20 accurately reflect the handguns on your permit  
21 at this time?

22 A. For the last year I would say no. There are  
23 quite a few that I no longer own, and there's  
24 quite a few new ones.

25 Q. Okay. Can you identify for the record which

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—BRETT CHRISTIAN - 11/16/2022—

1 of these weapons you no longer own at present?

2 A. The German sports guns, manufacturer one, the  
3 Glock 19X and Glock 27, the -- people call it  
4 CZ, but the Ceska -- I am butchering the name,  
5 but it would be listed model, Shadow 2, that  
6 one. The one below it, manufacturer is  
7 France, the 509C and the Smith & Wesson at the  
8 very bottom, 4566. So those I have all sold  
9 and replaced with different ones.

10 Q. You sold and replaced the six identified guns  
11 within the last year?

12 A. Year, year and a half. Thereabouts, yes.

13 Q. But you did testify that you have 11 handguns.  
14 So you have replaced them with other handguns?

15 A. Yes. Correct.

16 MR. BELKA: Brett, I don't think I have  
17 any other questions for you reserving my right  
18 depending on whether or not Mr. Rotsko has  
19 additional questions for you.

20 Mr. Rotsko?

21 MR. ROTSKO: Thank you, Mr. Belka. I do  
22 have some questions.

23

24 EXAMINATION BY MR. ROTSKO:

25 Q. Mr. Christian, is it correct that earlier

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1           today you testified that during the period  
2           after you obtained your concealed carry  
3           license and September 1st, 2022, you hiked in  
4           Stiglmeier Park?

5           A. Yes.

6           Q. About how many times a month, if you could  
7           estimate, did you hike in Stiglmeier Park  
8           during that time?

9           A. Approximately, two to three times a month.

10          Q. Did you carry a pistol in a concealed fashion  
11          in Stiglmeier Park on those hikes?

12          A. Yes.

13          Q. Have you hiked in Stiglmeier Park since  
14          September 1st, 2022?

15          A. I have not.

16          Q. Can you explain why not?

17          A. Based upon past experiences, not being able to  
18          carry and not having the guarantee per the  
19          Supreme Court that law enforcement will always  
20          be there to protect me, I can't guarantee my  
21          safety. If I can't guarantee my safety or  
22          have the means to protect myself, I find it  
23          best to avoid going to the areas. Don't put  
24          yourself in trouble is a good way to stay  
25          safe.

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1 Q. Is there anything that could happen that  
2 would -- that you would feel comfortable going  
3 back to Stiglmeier Park for hikes?

4 A. I am sorry. Say it again.

5 Q. Let me rephrase that. In your -- what would  
6 have to happen for you to feel comfortable to  
7 return to Stiglmeier Park at the same rate  
8 that you did prior to September 1st, 2022?

9 A. I would have to know that I could exercise my  
10 constitutional right to be able to have a  
11 pistol or revolver for my self-defense if the  
12 need arose in accordance with Article 35 of  
13 New York State Law.

14 Q. If that happened, how often would you return  
15 to Stiglmeier Park as part of your routine  
16 that you had prior to September 1st, 2022?

17 A. I would like to resume my previous frequency  
18 of two to three times a month to enjoy that  
19 park.

20 Q. Is it correct that earlier today you testified  
21 that after you obtained a concealed carry  
22 license you hiked in the Clarence Bike Path?

23 A. Yes.

24 Q. Are there any areas of the Clarence Bike Path  
25 where you would not hike?

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1 A. Yes. On one of the trails when you start  
2 getting towards what is called Clarence  
3 Center. I believe that's the actual town  
4 name. There's a Clarence Town Park that the  
5 bike path runs through, again, to use the  
6 laymen's terms of bike path. I don't enter  
7 that point because as far as I have been able  
8 to tell talking to law enforcement,  
9 researching on the internet, Clarence has a  
10 prohibition against that. So that part I  
11 don't go into.

12 Q. Prior to your hikes on the Clarence Bike Path,  
13 to what extent, if any, did you inquire with  
14 law enforcement officials about whether you  
15 can carry concealed on those bike paths?

16 A. When I first got my permit, the places that I  
17 frequent I spent a couple days making phone  
18 calls just to try and find out this  
19 information.

20 Q. Do you remember which law enforcement -- well,  
21 were those phone calls to law enforcement?

22 A. Yes. For Clarence, Clarence doesn't have a  
23 police department. That was the Erie County  
24 Sheriff's Office.

25 Q. Do you recall the guidance the Erie County

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1 Sheriff's Office provided you?

2 A. The person that answered the phone at the  
3 sheriff's office told me that the town park,  
4 the Clarence Town Park section is off limits,  
5 but the rest as far as they were aware was  
6 okay.

7 Q. And on the areas of the Clarence Bike Path  
8 that you used prior to September 1st, 2022,  
9 and after you had your concealed carry permit,  
10 did you carry a pistol in a concealed manner?

11 A. Yes.

12 Q. Have you walked or hiked on the Clarence Bike  
13 Path after September 1st, 2022?

14 A. No, I have not.

15 Q. Could you explain why?

16 A. Because, again, it is very wooded. Clarence  
17 does not have a police department of its own.  
18 It relies on the sheriffs. There's not a  
19 sheriff deputy standing on every street  
20 corner, every couple of feet. The prior  
21 history of the bike path, there was years and  
22 years ago the rapist on there that attacked  
23 women. I have no guarantee in the future that  
24 something else wouldn't happen there.

25 I have also encountered there and at

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1 Stiglmeier wild turkeys. Until I encountered  
2 them, you would think that they are a joke.  
3 They can be, especially when you get into the  
4 fall, very aggressive and a turkey on the  
5 Thanksgiving dinner plate is a lot smaller  
6 than in real life.

7 Q. If the CCIA had not taken effect on  
8 September 1st, 2022, would you have continued  
9 to walk the Clarence Bike Path?

10 A. Yes. I would have.

11 Q. About how often did you do that prior to  
12 September 1st, 2022?

13 A. Approximately, two to three times a week.

14 Q. Would you anticipate doing that -- excuse me.  
15 I am going to start over. Strike that  
16 question.

17 Would that habit have continued in your  
18 anticipation if the CCIA had not taken effect?

19 A. Yes.

20 Q. And would you return to that habit if the CCIA  
21 was repealed or enjoined?

22 A. Yes.

23 Q. Earlier today you testified to hiking in  
24 Harris Hill State Lands; is that correct?

25 A. Yes.

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—BRETT CHRISTIAN - 11/16/2022—

1 Q. Did that occur after you obtained the New York  
2 State concealed carry license?

3 A. Yes.

4 Q. Did you carry a pistol on the Harris Hill  
5 State Lands in a concealed manner?

6 A. Yes.

7 Q. Have you hiked -- about how often would you  
8 hike on the Harris Hill State Land?

9 A. It would average out to about once a month.  
10 More frequently in spring, summer, fall. Less  
11 frequently in winter just due to my days off  
12 or time off work versus weather cooperating.

13 Q. Have you hiked at the Harris Hill State Lands  
14 after September 1st, 2022?

15 A. I have not.

16 Q. Is there a reason for that?

17 A. Because I would not be able to get there, go  
18 about what used to be the routine for doing  
19 that and still legally have a pistol with me  
20 for self-defense.

21 Q. If the CCIA was repealed or enjoined, would  
22 you anticipate returning to your habit of  
23 hiking in Harris Hill approximately once a  
24 month?

25 A. Yes.

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1 Q. Prior to September 1st, 2022, did you carry a  
2 concealed pistol at the Valu Home Center that  
3 you were discussing with Mr. Belka earlier  
4 today?

5 A. Yes.

6 Q. Have you done so after September 1st, 2022?

7 A. I have not.

8 Q. Would you carry a concealed firearm on that  
9 Valu Home Center property if the CCIA was  
10 repealed or enjoined?

11 MR. BELKA: Objection.

12 Q. Go ahead and answer.

13 A. If I legally could do so, I would return to  
14 doing that.

15 Q. If the Valu Home Center -- I am going to pause  
16 for a moment.

17 Prior to September 1st, 2022, did you  
18 carry a concealed firearm on the Delta Sonic  
19 properties that you discussed with Mr. Belka  
20 earlier today?

21 A. Yes.

22 Q. Have you carried a concealed firearm on those  
23 premises after September 1st, 2022?

24 A. I have not.

25 Q. Are you able to estimate -- let me pause.

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1           After September 1st, 2022, when the CCIA  
2           took effect, have you reduced the number of  
3           instances where you carry concealed outside of  
4           the home?

5           A. Yes.

6           Q. Are you able to estimate by how much you have  
7           reduced your carry of a concealed firearm --  
8           pistol, excuse me?

9           MR. BELKA: Objection.

10          Q. I am going to strike that question. Well, I  
11          am going to ask another question.

12                 Mr. Christian, are you able to estimate  
13                 the extent to which your reduction -- or the  
14                 extent to which you have reduced your carry of  
15                 a concealed firearm after the CCIA took effect  
16                 on September 1st, 2022?

17                 MR. BELKA: Objection.

18          Q. You may answer.

19          A. It has been reduced to almost nonexistent. It  
20          would be easier to count on three fingers the  
21          number of places and times that I have been  
22          able to carry. It has virtually turned into  
23          an inability for me to do so.

24                 MR. ROTSKO: Thank you for your  
25          patience, Mr. Christian and Mr. Belka. I don't

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1           have any other questions right now, although I  
2           do reserve my right to re-cross if need be.

3  
4           REEXAMINATION BY BY MR. BELKA:

5           Q. Very briefly. How old were you on  
6           January 30th, 2020, when you received your  
7           concealed carry license -- or strike that.

8                       How old were you on January 30th, 2020,  
9           when you applied for your concealed carry  
10          license?

11          A. Approximately, between 37 to 38 years of age.

12          Q. Right. So just as shorthand I am going to  
13          refer to you as being 36 as prior to your  
14          receiving your concealed carry license. Would  
15          that be accurate?

16          A. Yes.

17          Q. Up until the time that you were 36 years old  
18          and you could not conceal carry, how many  
19          times did you walk in Stiglmeier Park?

20          A. Less frequently. It would have been maybe one  
21          to two times a year.

22          Q. So is it fair to say that upon receipt of your  
23          concealed carry license, you increased the  
24          frequency in which you walked in Stiglmeier  
25          Park from one to two times a year to two to

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1 three times a month?

2 A. Yes.

3 Q. When you were 36, again that's prior to you  
4 receiving your concealed carry license, how  
5 many times a week did you walk on the Clarence  
6 Bike Path?

7 A. Less frequent. Approximately two to three  
8 times a year.

9 Q. And is it fair to say that upon receiving your  
10 concealed carry license you increased the  
11 number of times you walked on the Clarence  
12 Bike Path from two to three times a year to  
13 two to three times a week?

14 A. Yes.

15 Q. When was the bike path rapist? Approximately  
16 what year in Buffalo?

17 A. I don't remember the exact year.

18 Q. My mother is law enforcement and was one of  
19 the individuals who sat as a dummy in order to  
20 catch the bike path rapist, and my wife was  
21 pretty young at the time so I am going to go  
22 like sometime in the 1980s. Does that sound  
23 right?

24 A. Without looking it up, I would defer to that  
25 then.

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1 Q. But it was a pretty long time ago, a couple of  
2 decades at least?

3 A. Yes.

4 Q. Okay. And the aggressive wild turkeys, have  
5 you ever had cause to use your weapon from the  
6 time you received your concealed carry permit  
7 until September 1st, 2022, in order to prevent  
8 wild turkey attacks?

9 A. Under Article 35 it has never gotten to the  
10 point where I would need to use it.

11 Q. What's Article 35?

12 A. New York State Article 35 on the use of deadly  
13 force when it is justified in relation to  
14 protecting human life.

15 Q. That's for discharge of firearms, right?

16 A. Relating to the discharge of firearms, I  
17 believe would be under the use of deadly  
18 force.

19 Q. Okay. Did you ever wave your handgun at the  
20 wild turkeys?

21 A. No.

22 Q. Did the concealed carry effect the wild  
23 turkey's aggressiveness when you were on the  
24 Clarence Bike Path?

25 A. I cannot speculate on their motivations.

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1 Q. Right. Okay. So when you were 36, again this  
2 is before you get the concealed carry permit,  
3 how many times a month did you go to the  
4 Harris Hill State Lands?

5 A. Before I got the permit?

6 Q. Before.

7 A. It would have been one to two times a year.

8 Q. And is it fair to say upon receiving your  
9 concealed carry permit that the amount of time  
10 you visited the Harris Hill State Lands  
11 increased from one to two times a year to one  
12 time a month?

13 A. Yes. On average.

14 Q. When you were 36 did you ever go to Valu Home  
15 Centers?

16 A. Yes.

17 Q. Prior when you were 36 did you go to Valu Home  
18 Centers less frequently than you did after  
19 your receipt of your concealed carry license?

20 A. Yes.

21 Q. So when you received your concealed carry  
22 license, you went to Valu more often than you  
23 had done prior?

24 A. Yes.

25 Q. Did you have any less need for hardware

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1 supplies before and after you received your  
2 concealed carry license?

3 A. No.

4 Q. As it relates to Delta Sonic, prior to -- when  
5 you were 36 -- strike all of that.

6 When you were 36 and going to Delta  
7 Sonic, did you go less frequently at 36 than  
8 you did after you received your concealed  
9 carry permit?

10 A. Yes. I was driving less.

11 Q. You were driving less?

12 A. Before I got my permit, I didn't drive as much  
13 as after I got my permit. So I wasn't using  
14 as much gas.

15 Q. What was the motivating factor for driving  
16 more?

17 A. To experience the outdoors of New York State.

18 Q. But only while concealed carrying?

19 A. I would carry when I had my permit before  
20 September 1st. I would carry wherever the law  
21 allowed and whenever the law allowed.

22 Q. But not when you were 36 because when you were  
23 36 you had no concealed carry permit?

24 A. Yes. So then when I was 36 there would be  
25 many instances I simply wouldn't do things

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1           because I wouldn't be able to guarantee my  
2           safety.

3           Q. You sat in your home as a 36-year-old man,  
4           okay, and did not experience the world  
5           including going to Delta Sonic, okay, until  
6           you received your concealed carry license?

7           A. Not -- let me back up here.

8                     MR. ROTSKO: Objection.

9                     MR. BELKA: I want you to answer that  
10           question.

11                    MR. ROTSKO: Yes. You can answer the  
12           question.

13                    MR. BELKA: Read it back.

14

15                    (The question was read.)

16

17                    THE WITNESS: I would not -- so I worked  
18           long hours. I don't have usually a 9:00 to  
19           5:00 day. A lot of times I will have a 7:00 or  
20           8:00 a.m. day until 6:00, 7:00, 8:00, 9:00,  
21           10:00 at night. If it's 8 o'clock at night and  
22           I am leaving work and I needed to run to the  
23           store in winter when it gets dark out, there's  
24           times I would go shopping after I got my  
25           permit. Wegmans used to be 24 hours before

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1 COVID did its thing. I would go grocery  
2 shopping at midnight, 1:00 in the morning. I  
3 am leaving work; it's convenient. I don't have  
4 to worry about my safety. I can stop at, you  
5 know, Delta Sonic at 8:45 at night before they  
6 close on a Friday night, Saturday night. I can  
7 get gas; I don't have to worry, and I can go to  
8 any Delta Sonic that I wanted. I could go to  
9 any Wegmans I wanted, any Tops. Now, for  
10 example, the Tops up from me on Union Road, the  
11 Wegmans up from me on Union Road.

12 Like I have seen at work, the criminal  
13 element seems to be more emboldened with the  
14 bail reform. I worry that there is now a  
15 greater likelihood of having a bad encounter  
16 and my attitude is, don't put yourself in what  
17 you would consider to be an unsafe situation.  
18 I don't feel free to go to the grocery store  
19 whenever they are open. I now prefer to go  
20 early in the morning when most people are  
21 asleep on a Sunday morning.

22  
23 BY MR. BELKA:

24 Q. This question is not about now. This question  
25 is about when you were 36 or prior to having a

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1           concealed carry license to the period in which  
2           you had a concealed carry license. Did you go  
3           to Delta Sonic less frequently before you had  
4           your concealed carry license as opposed to  
5           when you had your concealed carry license?

6           A. I made less stops.

7                       MR. ROTSKO: Objection. Asked and  
8           answered.

9           Q. You still have to answer.

10          A. I made less stops because I simply was not  
11          driving as much.

12          Q. Because you were going fewer locations because  
13          you didn't have a concealed carry permit?

14          A. Correct.

15          Q. You can count on three fingers the amount of  
16          times you have concealed carried after the  
17          implementation of the CCIA. What are those  
18          three times?

19          A. When I went to Cabela's and I recently added a  
20          new handgun and a more suitable bear caliber.  
21          That was recently a few weeks ago.

22          Q. When you say bear caliber, B-E-A-R?

23          A. B-E-A-R.

24          Q. Okay.

25          A. When I went to Wolcott Guns on Walden to use

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1 the shooting range at a gun store and there  
2 were two trips there: One to buy ammo and one  
3 to use the gun store -- or gun range. Sorry.

4 Q. Those are the three, Cabela's, Wolcott and  
5 Wolcott?

6 A. Correct.

7 MR. BELKA: That's all for me unless you  
8 have anything else, Nick.

9 MR. ROTSKO: I do not have anything  
10 else.

11 MR. BELKA: The deposition has ended. I  
12 only want a PDF.

13 MR. ROTSKO: PDF is sufficient for us as  
14 well.

15 MR. BELKA: And billing me. Nick, are  
16 you okay if the exhibits are attached to the  
17 transcript, copies of the exhibits?

18 MR. ROTSKO: Yes.

19

20 (Deposition concluded at 5:00 p.m.)

21

22

23

24

25

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